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1:37 P.M.

1 SENATE RULES COMMITTEE

2 STATE OF CALIFORNIA

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6 HEARING

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10 STATE CAPITOL

11 ROOM 113

12 SACRAMENTO, CALIFORNIA

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15 WEDNESDAY, APRIL 3, 2002

16 1:37 P.M.

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25 Reported by:

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27 Evelyn J. Mizak
28 Shorthand Reporter

APPEARANCESMEMBERS PRESENT

SENATOR JOHN BURTON, Chair

SENATOR ROSS JOHNSON, Vice Chair

SENATOR BETTY KARNETTE

SENATOR WILLIAM KNIGHT

SENATOR GLORIA ROMERO

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

SUSIE SWATT, Consultant to SENATOR JOHNSON

TIM SHELLEY, Consultant to SENATOR KARNETTE

CHRIS BURNS, Consultant to SENATOR KNIGHT

RYAN SHERMAN, Consultant to SENATOR ROMERO

ALSO PRESENT

GEORGE T. CAPLAN, Member
California Community Colleges, Board of Governors

JUDITH MICHAELS
California Federation of Teachers

MELBA MUSCAROLAS, Member
California Community Colleges, Board of Governors

MIKE WEIMER
California Federation of Teachers

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--ooOoo--

CHAIRMAN BURTON: Governor's appointees appearing today, George Caplan.

MR. CAPLAN: Yes.

CHAIRMAN BURTON: Hi, how are you?

MR. CAPLAN: Good. How are you? Good afternoon.

CHAIRMAN BURTON: Go ahead, sir.

MR. CAPLAN: It's a pleasure to be here. I think you have my personal statement --

CHAIRMAN BURTON: It's been made part of the record.

MR. CAPLAN: -- which I submitted.

I've attended and been functioning on the Board for some time.

The community college system is a great opportunity for the state. As most of you know, there are about 1,650,000 students utilizing the facilities at about 108 campuses statewide. I like to call this system California Unified, because what this really is, is a neighborhood community college system that is really an agency of the state.

I'd like to address only one issue because I think it's by far the most important issue. And I'm not going to talk about governance, things of that kind, which I think all of you are familiar with, and I think you've dealt with, and appreciate the limitations of the Board of Governors, and the way the governance is set up for the community colleges.

1 But the goals of the community college system,
2 which are basically to encourage transfers from the community
3 college system to four-year colleges, basic skills development,
4 and vocational training and development and upgrade are all
5 driven ultimately by basic skills development.

6 In our system, we do not require mandatory skill
7 testing. We do not require -- we have no system of mandatory
8 remedial education.

9 About a month ago, the State University system
10 published their own statistics, which they do keep, and about 50
11 percent of the incoming freshman class at the State University
12 system requires remedial math and/or reading and writing. We
13 know intuitively, since we don't keep statistics, we know
14 intuitively that in our system the statistic will be much, much
15 higher. My guess is probably in the 80 percent range.

16 The need for doing a better job in remedial
17 education is clear. We have an advantage over primary and
18 secondary education in this state, which is that the people that
19 come into the community college system come voluntarily, and
20 they come to improve their own educational training and
21 background. And I think that this a problem that we actually
22 can deal with, and that we can deal with in a reasonable period
23 of time. And I hope we do focus on it as time passes.

24 Thank you.

25 CHAIRMAN BURTON: I know it's not the community
26 college system, but the State University system, I guess, 50
27 percent of the people that go there need remedial --

28 MR. CAPLAN: That is correct.

1 CHAIRMAN BURTON: I'm trying to remember because
2 it was a few seasons back, but I think I had to take an entrance
3 exam to get into San Francisco State. I remember one of the
4 questions was about the guy who flew too close to the sun. You
5 know, why the hell they asked that question was beyond me. I
6 heard two people who took the test earlier talking about it, so
7 I got it right. That had a lot to do with anything.

8 SENATOR JOHNSON: I wish you'd been standing
9 outside before I took the test.

10 [Laughter.]

11 CHAIRMAN BURTON: That will be a question, I
12 guess, we should ask somebody if they ever come in with another
13 Trustee for CSU.

14 On community college, they have a voc. ed.
15 component, don't they?

16 MR. CAPLAN: We have -- we do have testing that
17 we can administer, but --

18 CHAIRMAN BURTON: No, I'm now into vocational
19 education.

20 MR. CAPLAN: Yes, of course.

21 CHAIRMAN BURTON: You do have a component?

22 MR. CAPLAN: Absolutely.

23 CHAIRMAN BURTON: What percentage of --

24 MR. CAPLAN: Of the 1,650,000 students that are
25 currently in the system, about 35 percent are full-time, and the
26 balance are part-time students and students that are focused on
27 vocational upgrade and training.

28 CHAIRMAN BURTON: How about those that go

1 full-time for a voc. ed. program?

2 MR. CAPLAN: I don't know what the percentage is.

3 CHAIRMAN BURTON: It's a significant part of your
4 role; right?

5 MR. CAPLAN: It is, absolutely.

6 CHAIRMAN BURTON: What is the Community College
7 Board doing to publicize the new Cal Grant program?

8 MR. CAPLAN: I don't know what the individual
9 campuses are really doing to publicize it, but I do know that
10 because it is available, that virtually all of the campuses do
11 provide that information to incoming students, and they should
12 know about it.

13 Whether we're doing an adequate job on the ground
14 or not, I can't tell you.

15 CHAIRMAN BURTON: Isn't that something that the
16 Board of Governors, because I think that came up the last time
17 we had somebody here, for them, for the Board of Governors to
18 take an aggressive policy to the various campuses to make this
19 available, the information? Because I think we found out that
20 the numbers were, the percentages, were really low with people
21 availing themselves of it.

22 So, I think that it would be important that you
23 go back to the Board of Governors, and you ask the Chancellor to
24 find out what's going on. And if they aren't doing it right,
25 for you people to give them a little boost.

26 MR. CAPLAN: That's a fair comment.

27 CHAIRMAN BURTON: You mentioned that you weren't
28 going to get into the governance structure because we were aware

of that, which is accurate. However, we're kind of aware that somehow, the way it's structured goes for somewhat of a muddlesome system, you know, where everybody can point that way.

Do you have any ideas how they could either, whether it's you or the Board of Governors, or us as the Legislature, and I'm sure Senator Romero, having been a Trustee, would have something to say about this, but how we could get a more effective governance thing with more accountability? What would be the problems? How would you do it if you had a magic wand?

MR. CAPLAN: First of all, it's a huge political problem because every regional area, local area, has a board of trustees that's elected locally. So, they have their own -- their own, in effect, supervisory board. They have a local administration and so forth.

Unlike the University of California or Cal State University system, this system is really directly a functioning arm of the state itself. We are an agency, in effect, of the state.

And the Board of Governors, which theoretically has the budget control, the umbrella control of the entire system, is actually in a position because of the way we are structured for governance purposes of negotiating with all of these individual areas.

We have a process called consultation. When we suggest an approach to a given problem, we wind up putting it through what we call the consultation process, which includes

1 the academic senates, the various local arms of these campuses,
2 and so forth, their representatives.

3 CHAIRMAN BURTON: You have no authority.

4 MR. CAPLAN: So, as a practical matter, we have
5 -- we have authority. We do have sort of end-of-the-road kind
6 of authority, but by the time you push that through the filter,
7 it's very limited.

8 There is certain rule making and regulatory
9 authority that we do have, so that, for example, if you mandated
10 and were prepared to pay for additional classrooms and teachers
11 for remedial education, we could pass through our rule making
12 authority very specific rules that would govern exactly how that
13 money was used so that that money did not find its way into the
14 base budgets of the local community colleges. In other words,
15 it would be used for a specific purpose.

16 I don't think we, as a board, have used that
17 authority as effectively as we really should.

18 So, there are ways for us to function better than
19 we have, in my opinion, that we haven't really utilized, but
20 again, it's within certain limitations.

21 CHAIRMAN BURTON: Senator Johnson.

22 SENATOR JOHNSON: I have a few serious questions
23 or comments, and then some that are not so important.

24 The last time we had someone before us for
25 confirmation to this position, Senator Burton, myself, and other
26 Members of this Committee spent a good deal of time talking
27 about this issue of outreach, making sure that students and
28 potential students were aware of the Cal Grant program. We

1 talked about mailings that are done by individual districts. We
2 talked about generalized mailings that go out. We talked about
3 mailings to graduating high school students. We talked about
4 the role that you folks could play in designing, you know,
5 fill-in-the-blanks kinds.

6 It's just very frustrating to me to see now, a
7 number of months later, you come before us, and apparently
8 nothing is happening in that area.

9 Have there been discussions at all?

10 MR. CAPLAN: Forgive me. It would be an unfair
11 conclusion on your part --

12 SENATOR JOHNSON: I don't want to be unfair.

13 MR. CAPLAN: I'll explain why.

14 I was appointed to the Board about the middle of
15 last year. But my wife was very seriously ill, and I did not
16 attend meetings for about six months. She passed away in
17 December, and I took care of her myself.

18 SENATOR JOHNSON: I'm very sorry for your loss.

19 MR. CAPLAN: So, you're kind of addressing a very
20 serious problem, and a perfectly legitimate issue to probably
21 the least prepared person for this purpose simply by virtue of
22 the fact that there were meetings that I didn't attend.

23 SENATOR JOHNSON: Allow me to rephrase my
24 comment. I don't think it was directed at you as an individual.

25 But I did understand you, in response to the
26 Chairman's question, to say that really, you didn't have a lot
27 of authority, and you hadn't done a lot, and you just sort of
28 hoped that the campuses would. And there was a good deal of

1 discussion the last time we had someone come forth.

2 The next question, and this is a semi-serious
3 question, have you ever attended a California community college?

4 MR. CAPLAN: No.

5 SENATOR JOHNSON: Again, this is not a reflection
6 on you, but it certainly is, I think, reflective of an attitude
7 on the part of the Governor.

8 There are plenty of folks who are well qualified,
9 who have direct experience in community colleges. Not taking
10 anything away from you, but it's more intended to the gentleman
11 seated out here in the front row because I've raised this issue
12 before, and the Chairman has raised this issue before: Why
13 aren't we appointing people who actually attended or are
14 graduates of a California community college?

15 You don't have to respond to that. It really
16 wasn't intended or directed to you.

17 The final question, and this is a matter of
18 curiosity, what is the Jewish Television Network?

19 MR. CAPLAN: The Jewish Television Network
20 produces a wide variety of Jewish programing, some of it -- for
21 example, we have a cooking show that is widely broadcast on PBS
22 stations in a number --

23 SENATOR JOHNSON: So, it's like a syndication?

24 MR. CAPLAN: Yeah, it is. There are bunch of
25 other programs that we've produced over the years. And at this
26 point, we probably reach the equivalent of about 130 million
27 homes with some of our programs. So, that's what it does,
28 notwithstanding perception, common perception, that Jewish

1 people, you know, are widely involved in media.

2 The Jewish Television Network is tiny, and the
3 amount of programing that it produces is tiny. And it is the
4 only thing of its kind. But that's what it is.

5 SENATOR JOHNSON: Very interesting.

6 Thank you.

7 CHAIRMAN BURTON: Senator Romero.

8 SENATOR ROMERO: Thank you.

9 I'm very interested in the issue of transfer. I
10 think actually it's probably one of the biggest disgraces in
11 California with respect to the numbers, really, I think, the
12 poor job that we have done in California with respect to
13 transfer.

14 On that, I'd like to hear what your thoughts are
15 on addressing transfer in a very serious way, the commitment of
16 resources, and also what your ideas are, and what you can do to
17 boost the transfer rate. It's estimated right now that 20
18 percent of the community colleges in California account for some
19 80 percent of the transfers. And I'll tell you, they're not in
20 East L.A., which I represent.

21 What you can do? What is the problem, and what
22 are we doing, because typically, community colleges are the
23 Ellis Islands of higher education for low-income students, for
24 minority students, for immigrant students. It's where I
25 started, and I think they play a very valuable role in
26 California. But if we can't transfer, we're losing an entire
27 generation of students.

28 What are your thoughts and ideas and commitments

1 on transfer?

2 MR. CAPLAN: First of all, I agree with you. I
3 agree with everything you've just said.

4 The explanation for the problem is really, there
5 are a lot of issues that feed this problem. For example, we now
6 know which of our campuses receive young people who are the
7 poorest prepared. That testing we do have in the system. It's
8 a SAT 9 series of tests, and we know by way of an example,
9 Compton Community College has the lowest level of preparedness.
10 And you would expect that, actually. I mean, intuitively you
11 would expect that.

12 Without addressing remedial education and finding
13 a way to become effective, it's very, very difficult to
14 ultimately improve the transfer rate. And that's because at the
15 end of six years, I gave you a statistic that out of
16 approximately 300,000 students who enter the system, only 30,000
17 at the end of six years have completed 56 units, which is the
18 equivalent of two years, including transfer English and math --
19 that's baseline transfer, credit-worthy English and math --
20 100,000 have, after six years, completed 56 units without it.

21 Now, the statistics are a little -- we don't have
22 a good handle on our own statistics, unfortunately. So, when
23 you look at this, this is, I think, one of the most serious
24 problems we have. And unfortunately, it's tied up with -- with
25 remedial education, because if kids can't -- young people can't
26 write sentences, and if they can't do baseline arithmetic and
27 math, it's very difficult for them to legitimately transfer.

28 Now, there are lots of private schools, by the

1 way, four-year schools, that will take our community college
2 students after a year, many even without these baseline courses.
3 And there are, for example, at the end of six years, a larger
4 group of students who have mastered the English and math at a
5 transfer level credit course, but don't have 56 units overall.
6 And that's because our young people that go to community
7 colleges are working, almost all of them, and so they have
8 family problems, they have work problems, they have all kinds of
9 problems that intervene.

10 So, it's a very, complicated issue. We are
11 beginning to develop a statistical model that compares community
12 colleges based on the preparedness of their students. It's a
13 very legitimate approach to this, and then try to figure out,
14 using some other criteria -- and I'd be happy to sit through
15 this with you individually and really take you through what
16 we've done, because it's very recent information -- and try to
17 figure out whether a particular community college has done a
18 good job or not based upon the preparedness of their students,
19 the age level. We find that when students are older than 25 or
20 26 years old, it's harder for them to matriculate because you
21 know, by then they start to have children, they have families,
22 and they're working. I mean, there are all kinds of things that
23 feed this problem.

24 But if you want to try to boil it down to a
25 common problem, the common problem is finding a way to improve
26 remedial education at the community college level. And I think
27 it's worthwhile because these young people have selected
28 themselves to attend.

1 And I also think that this is a legislative
2 issue. We compensate remedial education at one-half a credit
3 course, and we shouldn't.

4 SENATOR ROMERO: I'd be very interested in
5 learning more and working with you on this issue, because I
6 think it is a major concern.

7 Let me just ask one last -- go ahead, Senator.

8 SENATOR JOHNSON: I was just struck by your
9 answer that you would attempt to evaluate the job that they've
10 been doing in terms of preparedness of their students, but if
11 Senator Romero's opening comment is accurate in terms of where
12 the students are coming from, I don't know how you'd go about
13 doing that on the basis of students who are transferred if in
14 some community colleges, a disproportionate share of the
15 students who are transferring come from those schools, and a
16 disproportionately low percentage come from others.

17 How do we go about that without trying to
18 evaluate every student in the community college system?

19 MR. CAPLAN: Well, I'll just give you two
20 statistics that have an impact.

21 One is, if the average SAT 9 score composite at a
22 college is in the 30th percentile, which means it's 20 points
23 below the national average, and that's true with Compton, as an
24 example, and you have another community college where the
25 composite scores for incoming students now is at 57 or 8, you
26 would expect that the college that gets these better prepared
27 young people would have a substantially higher transfer rate
28 into a four-year college than Compton Community College.

1 Now, how is Compton Community College doing,
2 given the lack of preparation of its incoming students? And we
3 can make some comparisons based on that. And what you find,
4 surprisingly, is that there are some colleges who get young
5 people who are really quite prepared, but for some reason their
6 transfer rate is very low, it's much lower than you would
7 expect. So, we're just getting into that.

8 The other thing is that in a particular community
9 college, the average age of the students is substantially older
10 than some of the others. And that, too, plays into this issue.

11 So, you need to -- you actually need to look at
12 this a little bit and to play around with it.

13 And by the way, the statistical information that
14 I'm giving you is information that was prepared for us just
15 literally at our last meeting, which was about two or three
16 weeks ago, and it's the result of a matrix that was just
17 recently done.

18 In other words, we're not very sophisticated in
19 trying to figure this issue out. We haven't done a great job in
20 trying to come to grips with it. And we need to, because we
21 can't -- unless we have proper information, we're not going to
22 understand how to address it.

23 SENATOR ROMERO: Let me just ask one last
24 question.

25 I've often heard that there's no meaning to the
26 Associate of Arts Degree any longer. It doesn't have a great
27 deal of relevance. In fact, many students leave the college
28 before they get their AA, largely because of the requirement for

1 PE. And I know there's a lot of discussion about fitness and
2 all of that.

3 [Laughter.]

4 SENATOR ROMERO: This is not a commentary on
5 those bills.

6 But it is an issue, a trend that's been noticed,
7 I believe, certainly within the L.A., and I would imagine
8 probably reflective statewide.

9 There's been some discussion about saying, forget
10 the AA, because most 25-year-olds or 40-year-olds are not going
11 to go take badminton or some other form of PE, and maybe just
12 focus on the certificates or the transfer-ready, and that's
13 different from transfer as well.

14 What are your thoughts on that?

15 MR. CAPLAN: I don't think that the AA degree, in
16 and of itself, makes much difference.

17 I think that -- and another part of the
18 statistics that we were given, and which require some more work,
19 but it is clear that we have lots of students transferring after
20 only one year, especially those that were able to take and pass
21 transfer-level English and math. They leave after a year. They
22 transfer almost immediately. So, they don't ever get an AA
23 degree.

24 I don't think it makes much difference whether
25 you have an AA degree or not. I think the real issue is, you
26 know, how academically prepared you actually are with the
27 courses that you had. Obviously, PE doesn't make any
28 difference.

1 But I think that what we're trying to do with
2 this system is to create a two-year system that becomes a feeder
3 for four-year systems. And in that sense, you know, successful
4 completion of a certain number of units, whether they include PE
5 or not, does matter. But I don't think -- for example, I don't
6 think CSU cares whether you have PE or not.

7 SENATOR ROMERO: Thank you.

8 CHAIRMAN BURTON: Senator Karnette.

9 SENATOR KARNETTE: PE is very important,
10 especially if you want to think clearly.

11 But anyway, apart from that, your comments,
12 though, about the reasons the goals of the students who actually
13 attend the community colleges, I have Cerritos Community
14 College. Since you're from L.A., you're familiar with that
15 school.

16 That is one of the better community colleges, I
17 would guess. Now, I'm guessing, but I know you don't have a lot
18 of data, but as far as academic scores and such.

19 However, the people who go there don't
20 necessarily want to go on to a four-year college. That's not
21 their interest. And it was ranked low, and it really is a very
22 good community college.

23 I know you need different data, because I think
24 you have to look at why is a person attending.

25 You had mentioned when we talked that data, to
26 get the correct data was difficult. How can that be improved?

27 MR. CAPLAN: We are beginning to improve the data
28 that we collect. For example, we're trying to figure out which

1 of our colleges are chronically poor performers in this area,
2 and we're trying to figure out why that is.

3 So, if we take a look at -- we tried to feed in
4 initial preparedness of students, the age -- the population age
5 of the students, and also we tried to feed in the articulated
6 goals of the students themselves. When our students come into
7 us, they do fill out material that indicates whether they have
8 an interest in transfer.

9 SENATOR KARNETTE: That would be interesting,
10 because I think it really isn't fair to tell a community college
11 board that their students are not transferring when they don't
12 want to transfer and that wasn't their intent.

13 MR. CAPLAN: I agree with that.

14 SENATOR KARNETTE: But I do think the
15 transferring should be possible.

16 But one of the problems you mentioned, though,
17 about their needing remediation, and I brought this up with you
18 earlier, but adult education gets in here somewhere. I haven't
19 figured out exactly where we need to put it, but adult education
20 teachers could do some testing that wouldn't have to be
21 recorded, but the student would find out whether or not they
22 were able to handle the language and math skills.

23 I think there are other ways around this problem,
24 because a lot of students never have a chance to really learn to
25 write, as you mentioned, and do have mathematical ability, but
26 if they had some opportunity to learn it, they'll do very well.

27 And I don't know if the community college, if you
28 can't test them, and you can't record the exam, this is a

1 problem. I'm tired of testing, though.

2 MR. CAPLAN: By the way, let me give you an
3 interesting little snapshot of Cerritos, because using the
4 criteria that our staff developed recently, the actual transfer
5 rate at Cerritos was 29.67 percent, and the expected transfer
6 rate was about 30.6 percent. So, it's very close to performing
7 at expectations. So, it's actually not -- it's not -- it
8 shouldn't be heavily criticized, frankly.

9 SENATOR KARNETTE: Maybe they felt like they
10 should have been at top.

11 MR. CAPLAN: Okay, but again, using this matrix,
12 which probably still needs some refinement, but that particular
13 campus is doing fine.

14 CHAIRMAN BURTON: Voc. ed. Are voc. ed. programs
15 two-year programs basically?

16 MR. CAPLAN: No. They are -- there are all kinds
17 of vocational education programs. There are very short
18 programs; there are long programs. It really depends on what
19 the vocation is and how much training is required.

20 And they do not require full-time attendance, and
21 in fact, most of the vocational education, the students who are
22 aimed at vocational education do not attend for two years. It's
23 over a much shorter period of time, and of course, their goals
24 are different than the young people who are trying to transfer.

25 CHAIRMAN BURTON: So, that wouldn't fit into any
26 of these. So, basically, going back to Cerritos, if 31 percent
27 of the people that went there said they wanted to go to a
28 four-year school, and 29 percent made it, that was it, and the

1 other 69 percent that didn't want to go anywhere, they aren't
2 considered failures because they didn't want to go anyway.

3 MR. CAPLAN: Right. But, Cerritos may be doing a
4 terrific job for training for computers --

5 CHAIRMAN BURTON: They're doing a good job --

6 MR. CAPLAN: -- or other vocational training.

7 CHAIRMAN BURTON: It seems to me they're doing a
8 hell of a job for the 31 percent that wanted to go on, if 29
9 percent of them are doing it.

10 MR. CAPLAN: Right.

11 CHAIRMAN BURTON: What percentage of community
12 college students, or as Ray Johnson used to say, you know, going
13 back, just older people, or something, to take, as one of our
14 beloved colleagues used to say, basket weaving.

15 SENATOR JOHNSON: Italian Renaissance painting in
16 the case of Mrs. Johnson.

17 CHAIRMAN BURTON: Yes, and God rest both of their
18 souls.

19 What are the percentage that just go back to --
20 oh, your Mrs. Johnson as opposed to the other -- what percentage
21 are people that just, they go back, not to fill time, but
22 they're going back to just do something useful and learn things?

23 MR. CAPLAN: I don't know the answer to that. I
24 really don't.

25 CHAIRMAN BURTON: That would be an interesting
26 one, because I think as we get into problems, and as they maybe
27 get into community college fees, that the fee for students going
28 voc. ed., the fee for students that are transferring, as opposed

1 to the Mrs. Johnson, or whoever, that are going there, just
2 decide to take a course in Italian cooking, or Jewish cooking if
3 they can't get your thing on cable, that it would just be an
4 interesting percentage.

5 Anybody here from the Board? It'd be interesting
6 just to get the number of, like, whatever we might -- I don't
7 want them right now -- but the type of thing we talk about,
8 where people are going just to further their interests almost,
9 as opposed to their education.

10 Do you have any family come with you, Mr. Caplan?

11 MR. CAPLAN: No.

12 CHAIRMAN BURTON: Witnesses in support?

13 MS. MICHAELS: Mr. Chair and Members, just
14 briefly, Judith Michaels, California Federation of Teachers.

15 We support the appointment.

16 CHAIRMAN BURTON: Witnesses in opposition?

17 Hearing none, moved by Senator Romero. Call the roll.

18 SECRETARY WEBB: Senator Karnette.

19 SENATOR KARNETTE: Aye.

20 SECRETARY WEBB: Karnette Aye. Senator Knight.

21 SENATOR KNIGHT: Aye.

22 SECRETARY WEBB: Knight Aye. Senator Romero.

23 SENATOR ROMERO: Aye.

24 SECRETARY WEBB: Romero Aye. Senator Johnson.

25 SENATOR JOHNSON: Aye.

26 SECRETARY WEBB: Johnson Aye. Senator Burton.

27 CHAIRMAN BURTON: Aye.

28 SECRETARY WEBB: Burton Aye. Five to zero.

1 CHAIRMAN BURTON: Congratulations, Mr. Caplan.

2 MR. CAPLAN: Thank you very much. I appreciate
3 it.

4 CHAIRMAN BURTON: Melba Muscarolas.

5 MS. MUSCAROLAS: Mr. Chairman and Members of the
6 Committee, my name is Melba Muscarolas, and I am responsible --
7 I work for SPC, Pacific Bell. I'm responsible for government
8 relations and external affairs for northern and central
9 California.

10 And I have been attending some of the meetings
11 already.

12 While I did not personally go to a community
13 college, I would like to say that a couple of my sisters did,
14 and it was particularly meaningful to our family, because my
15 parents are immigrants from Cuba, and we are the first
16 generation in the family to go to school. My oldest sister led
17 the way by going to a community college, which allowed me to
18 sort of find my way to a four-year school.

19 My youngest sister has been there a number of
20 occasions. She went to train there to be a hair dresser, and
21 then went back for her training to be a chef at L.A. Trade Tech
22 on both occasions.

23 As a member of the SPC Pacific Bell family, we
24 have 57,000 employees in California, and we rely very, very
25 heavily on California's community colleges to develop and train
26 employees for our workforce.

27 I believe you all have a statement of goals
28 before you.

1 CHAIRMAN BURTON: That's part of the record.

2 MS. MUSCAROLAS: So, I'm just here to answer any
3 questions you might have.

4 CHAIRMAN BURTON: What's your position on
5 Assemblyman Rod Wright's legislation?

6 MS. MUSCAROLAS: Which legislation is that?

7 CHAIRMAN BURTON: If you don't know, it's not
8 important.

9 MS. MUSCAROLAS: AB 2958? I can go into a
10 lengthy --

11 [Laughter.]

12 CHAIRMAN BURTON: No, just checking.

13 MS. MUSCAROLAS: We're in support of AB 2958.

14 CHAIRMAN BURTON: I thought you were against it.

15 MS. MUSCAROLAS: No, we're in support. That's a
16 helpful piece of legislation.

17 CHAIRMAN BURTON: I'm sure it is.

18 How long have you been on the Board?

19 MS. MUSCAROLAS: Since about last May I started
20 attending meetings.

21 CHAIRMAN BURTON: Well, you heard the questions
22 that we asked Mr. Caplan. Why don't you just go on, give your
23 views.

24 One, we're very concerned about the Board giving
25 direction to the various campuses in the outreach of the Cal
26 Grant. So, we're all for Cal Grants, so you don't have to do
27 anything, but we want to see that happening. We raise that
28 issue with all of the new governors since the new Cal Grant bill

1 passed.

2 We're concerned that the faculty -- at least I'm
3 concerned; I think some of Members are and some may not be --
4 but the diversity of the faculty doesn't come close to the
5 diversity of the students. I'm not exactly sure what step the
6 Board of Governors can do.

7 The Board of Governors, it seems to me, does not
8 have a hell of a lot of power over the operation because they're
9 an appointed group operating over duly elected groups. And
10 whether or not at some point our Higher Ed. Committee can take a
11 look at what we should do about that, but I think all you can
12 kind of do is give some direction and nudge, but I guess each
13 campus conceivably can do what they want, or at least each
14 district.

15 MS. MUSCAROLAS: Absolutely.

16 First of all, on the issue of the Cal Grant
17 outreach, actually the Chancellor's office has hired a
18 specialist, and we have been very aggressively trying to do
19 outreach on that.

20 Secondly, with regards to diversity, that is a
21 topic that comes up very frequently at our Board of Governors
22 meetings. And while we may not have absolute control, I think
23 we can provide leadership and direction, and make sure that
24 we're getting the facts out there, and kind of helping in a lot
25 of different ways.

26 I work for a corporation that has a very high
27 diversity in their workforce, and so that, to me, is a personal
28 goal, to make sure that we reflect the population that we

1 serve.

2 On transfer, if I could just make a comment. We
3 were presented with a very good report that the Chancellor's
4 office has done on this transfer issue. I believe that many of
5 the Legislature is going to be briefed on that soon.

6 I think a lot of progress has been made in
7 creating the right set of data to come up with numbers in the
8 future. So, in other words, to identify how many people really
9 have a goal of transferring, because not everybody does. And of
10 those, then really being able to track how many are going to
11 private institutions, or how many are going to CSU. And we do
12 that also by ethnicity, which I think is important to make sure
13 that we're meeting the needs of California's diverse population.

14 So, in the next few weeks, I can either help get
15 that report to all of you, or I know that the Chancellor's
16 office is very excited about being able to present these
17 numbers. So, it's definitely a focused area, and I think that
18 you'll see improvement, and you'll continue to see improvement
19 in the future as well.

20 CHAIRMAN BURTON: Would that report have, again,
21 the group that just go back more to not with any long-term goal
22 except to maybe increasing knowledge in a certain area for their
23 own satisfaction, so we could kind of find out, you know, who's
24 going almost because they have to, who's going because they sort
25 of have to, and who's going because it's something to do and
26 enriches their lives, but when it's all over, the world may or
27 may not be better served by Mrs. Johnson's understanding of
28 Renaissance Italian art.

1 MS. MUSCAROLAS: I think that's absolutely the
2 key, is to figure out why the students are there, and then to be
3 able to meet the needs that they have, whether it is vocational
4 training to get back into the workforce quickly and earn more
5 money to support their families, or whether it is a college
6 education and transfer to another school. So, that's the key.

7 CHAIRMAN BURTON: Or if it's just --

8 MS. MUSCAROLAS: As you say, right.

9 CHAIRMAN BURTON: I mean, I'm not downgrading it,
10 but something to do.

11 With me, if it came down to -- and I guess we are
12 the ones to do it -- if, say, you had, to say something
13 terrible, do something about fees, I would be more inclined to
14 put the fees on those that are just going back to fulfill some
15 intellectual exercise of theirs versus somebody that, you know,
16 needs voc. ed. to end up not being in the CalWORKs program.

17 MS. MUSCAROLAS: Absolutely, I agree.

18 CHAIRMAN BURTON: And speaking of that, what is
19 the relationship, and some of us think too much relationship,
20 with the community colleges and the CalWORKs program; do you
21 know?

22 MS. MUSCAROLAS: I don't know that I can answer
23 that right now.

24 CHAIRMAN BURTON: Senator Johnson.

25 SENATOR JOHNSON: Some of us think there ought to
26 be a greater connection. Some of us think that the community
27 colleges are the logical entity in the State of California for
28 job training and development. We've got too many competing

1 programs, but everywhere there's a community college, and that
2 they're best suited to deal with businesses in the local area.

3 but that aside, Mr. Chairman, I just want to
4 reiterate the comments made to Mr. Caplan. That is, this
5 business of outreach and some leadership from your level to
6 encourage community colleges to make known the opportunities for
7 the Cal Grants to students, to high school seniors, and so on.
8 That's very important.

9 We've talked about this in the past, and it's
10 disappointing that we haven't seen something there. And then
11 again -- and it's not aimed at you but the gentleman in the
12 front row -- it is inconceivable to me that the Governor is
13 unable to find qualified candidates for these positions that
14 actually attended a community college. No disrespect intended
15 for you or for the gentleman who preceded you up here, but both
16 of you attended name universities, went straight through from
17 high school, graduated at 22 or so, and had the ability to
18 understand the needs of someone who didn't have that
19 opportunity, who struggles in a community college, maybe goes
20 back, was a high school drop-out, and goes back at 26 or 27
21 years of age, for either vocational training or develops at some
22 point the desire to go on for a four-year degree.

23 Again, no reflection on you, but I think that the
24 Governor ought to be looking at appointing people who actually
25 have some personal experience with community colleges.

26 I have no questions.

27 CHAIRMAN BURTON: Senator Romero.

28 SENATOR ROMERO: Thank you.

1 And let me just say as well, too, to the
2 distinguished gentleman in the front row that I actually do
3 share the sentiments of Senator Johnson. I do associate myself
4 with the comments of Senator Johnson.

5 Transfer's a big issue for me, but I'm not going
6 to repeat those questions. You've heard them; you know where
7 I'm coming from.

8 Let me ask you about the governance structure.
9 You know, I was a former trustee. A number of reports have been
10 issued, from the California Citizens Commission, the Little
11 Hoover Commission.

12 I think that there is a serious governance
13 structure problem in our community colleges. I would like to
14 see a strengthening, a statewide strengthening of the community
15 college system. It's pointed out that even, for example, there
16 is no legislative or constitutional officer who is part of the
17 Board of Governors, unlike the Regents or the Trustees.

18 But it seems to me that there is a fundamental
19 problem. And it's so decentralized, it's almost to the point
20 of, I think, being ineffective.

21 What are your thoughts? What are your responses
22 to the Hoover Commission, the Citizens Commission, that
23 basically said the governance structure is this muddled
24 structure that needs some serious attention?

25 And I think if there's a strengthening of the
26 governance structure, maybe the community colleges, and I'm a
27 product of the community colleges, will begin to, I think, get
28 the funding respect that I think it deserves.

1 What are your thoughts on the governance
2 structure, and specifically, responses to the Citizens
3 Commission and the Hoover Commission?

4 MS. MUSCAROLAS: I would love to see a
5 strengthening of the governance system, without a doubt. I've
6 been to meetings slightly less than a year, and I find it a very
7 difficult system to work with.

8 The community colleges are faced with enormous
9 challenges, as many of you have mentioned here, because we play
10 such a diverse role for so many Californians, and it needs to be
11 strengthened.

12 I have not studied those reports in depth. I'm
13 glad to hear that you agree with that, because I think we do
14 need -- we do need help, and the Legislature's help, in
15 strengthening that system so that we can more effective and make
16 changes quickly in a changing environment.

17 SENATOR ROMERO: Thank you. I appreciate that.

18 CHAIRMAN BURTON: Senator Knight.

19 SENATOR KNIGHT: Thank you, Mr. Chairman.

20 I certainly hope that Senator Johnson does not
21 tell the Mrs. Johnson that we laughed at her desire for
22 education.

23 SENATOR JOHNSON: I've been married for 33 years
24 for a reason.

25 [Laughter.]

26 SENATOR KNIGHT: I have one.

27 It appears as though, even from Mr. Caplan's
28 testimony and your testimony, that we're putting an awful lot of

1 emphasis on the fact that community college students don't or do
2 transfer to a four-year school.

3 I have four community colleges in my district,
4 and most of those community colleges are involved in vocational
5 training to support the local area. In fact, in the Antelope
6 Valley, we have established programs in support of the aerospace
7 industry.

8 I just wonder if you believe that there is too
9 much emphasis on going to the four-year college as opposed to
10 the vocational end of community colleges, and even to the AA
11 degree, which does provide for the ability of a student to
12 function responsibly in the community?

13 MS. MUSCAROLAS: I believe that because of the
14 transfer report that came out last year, that this is an issue
15 that we are very much trying to address and get --

16 SENATOR KNIGHT: Let me ask the question
17 differently.

18 What you mean the transfer rate? Why are you so
19 concerned about the transfer rate?

20 MS. MUSCAROLAS: Well, because I think the
21 Legislature was concerned about it and other folks.

22 SENATOR KNIGHT: Did we ask the question?

23 MS. MUSCAROLAS: Not in this particular group,
24 but that's as I understand it.

25 But let me just tell you that we do focus very
26 much --

27 CHAIRMAN BURTON: Even before you got here, there
28 was a Legislature.

1 SENATOR KNIGHT: History lesson.

2 MS. MUSCAROLAS: Let me just say, and I -- first
3 of all, I think that's a great point, and I think we do spend
4 very much a lot of time on the vocational side of it, because we
5 are the ones that keep California working. We keep people
6 trained. And when they lose their job, perhaps they go back and
7 get training again. So, we're the ones that keep that local
8 economy going, and that is very much a big part of the community
9 colleges.

10 And I think that's a part that works very, very
11 well, which I think, you know, the focus has been a little bit
12 more intense on the transfer, because I think there was an
13 identified problem which, again, we're fixing.

14 The vocational side, I think, is very, very
15 strong. And it is very important to the local colleges.

16 SENATOR KNIGHT: I just don't want to get too far
17 away from that.

18 MS. MUSCAROLAS: Absolutely. I agree with you.

19 SENATOR KNIGHT: Because it is important, I
20 think.

21 MS. MUSCAROLAS: I agree with you. And that's
22 where, again, my role in our company, we need technicians, we
23 need service reps, we need people that are constantly trained,
24 and the community college is a great place to train people to go
25 into high paying jobs.

26 SENATOR KNIGHT: Thank you.

27 CHAIRMAN BURTON: Senator Karnette.

28 SENATOR KARNETTE: I think that the vocational

1 training, though, to get back to what Mr. Caplan said, one of
2 the things they have to be, most of them, especially in your
3 line of work, I would think, capable in language and
4 mathematics. So, we get back to those basic skills again, and
5 physical education so they'll be able to stay awake.

6 But another thing about the vocational training,
7 I took stenotyping, by the way, and I never could learn it.

8 But if you do that, you may come back later. I
9 mean, I think whatever training we get, we should have a future
10 if we so desire.

11 I went to a community college. It was called a
12 junior college, and it wasn't in California. But everybody
13 wanted to go at that particular time. Everybody thought they
14 would go to a four-year college. I transferred all those units,
15 even more than I dreamed. I even transferred things that they
16 wouldn't have taken where I was before.

17 But I'm wondering about the structure. Do you
18 really think, and I know it's going to be hard on you, but do
19 you really think that having elected people would be helpful if
20 we had somebody on the Board, because UC and CSU governing
21 bodies do? That's hard.

22 MS. MUSCAROLAS: I think that's probably
23 premature for me to say. I know we have a couple of student
24 members on the Board right now that are just dynamite, so I
25 would welcome getting sort of people from different places, and
26 elected, that may be a good strategy. I certainly will give
27 that some thought. I wouldn't know just off-hand right now to
28 be able to answer that.

1 CHAIRMAN BURTON: That'd be up to us if you're
2 going to change the composition of the Board. It's up to the
3 Legislature, not up to the Board.

4 SENATOR KARNETTE: Yes, but I really wanted to
5 know, and maybe Senator Romero could help me in that area.

6 SENATOR ROMERO: My own point is that I think the
7 overall structure is so weak, and there's a need to, I think,
8 pay attention to those reports, come up with some remedies.

9 SENATOR KARNETTE: Maybe we ought to look at
10 those reports and look at some legislation.

11 CHAIRMAN BURTON: Sounds like it cries for a
12 select committee.

13 [Laughter.]

14 CHAIRMAN BURTON: Do you have any family with
15 you?

16 MS. MUSCAROLAS: I do have my husband here, Steve
17 Glazer.

18 CHAIRMAN BURTON: Witnesses in support?

19 MR. WEIMER: Yes, Mike Weimer, representing
20 California Federation of Teachers.

21 The Federation has had a chance to talk to the
22 appointee, and we would support that.

23 CHAIRMAN BURTON: Any witnesses in opposition?
24 Hearing none, moved by Senator Karnette. Call the roll.

25 SECRETARY WEBB: Senator Karnette.

26 SENATOR KARNETTE: Aye.

27 SECRETARY WEBB: Karnette Aye. Senator Knight.

28 SENATOR KNIGHT: Aye.

1 SECRETARY WEBB: Knight Aye. Senator Romero.

2 SENATOR ROMERO: Aye.

3 SECRETARY WEBB: Romero Aye. Senator Johnson.

4 SENATOR JOHNSON: Aye.

5 SECRETARY WEBB: Johnson Aye. Senator Burton.

6 CHAIRMAN BURTON: Aye.

7 SECRETARY WEBB: Burton Aye. Five to zero.

8 CHAIRMAN BURTON: Congratulations.

9 MS. MUSCAROLAS: Thank you very much.

10 [Thereupon this portion of the
11 Senate Rules Committee hearing
12 was terminated at approximately.
13 2:30 P.M.]

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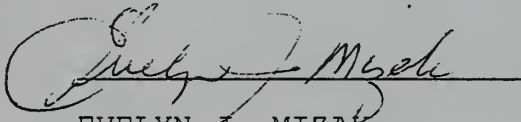
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I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 5th day of April, 2002.


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APPEARANCESMEMBERS PRESENT

SENATOR JOHN BURTON, Chair

SENATOR BETTY KARNETTE

SENATOR WILLIAM KNIGHT

SENATOR GLORIA ROMERO

MEMBER ABSENT

SENATOR ROSS JOHNSON, Vice Chair

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NETTIE SABELHAUS, Consultant on Governor's Appointments

SUSIE SWATT, Consultant to SENATOR JOHNSON

TIM SHELLEY, Consultant to SENATOR KARNETTE

CHRIS BURNS, Consultant to SENATOR KNIGHT

RYAN SHERMAN, Consultant to SENATOR ROMERO

ALSO PRESENT

HARLAN HENDERSON, Administrator
Oil Spill Response, Department of Fish and Game

ROBERT C. HIGHT, Director
Department of Fish and Game

THOMAS NAPOLI, President
California Association of Professional Scientists

WYATT T. HART, Member
Youthful Offender Parole Board

RAUL GALINDO, Chair
Youthful Offender Parole Board

1 ROBERT PRESLEY, Secretary
2 Youth and Adult Corrections Agency

3 DONALD L. BLANKENSHIP, Chief
4 Bureau of Investigation
5 Orange County District Attorney's Office

6 RONALD A. HERRON, Member
7 Youthful Offender Parole Board
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P-R-O-C-E-E-D-I-N-G-S

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CHAIRMAN BURTON: Governor's appointees, Harlan Henderson, Administrator, Oil Spill Response.

Director Hight.

MR. HIGHT: Good afternoon, Mr. Chairman and Members. Robert Hight, Director of Department of Fish and Game.

It is my honor to be here today to introduce to you Harlan Henderson, a 26-year career Coast Guard employee who has now taken a job a Director of the Office of Oil Spill Prevention and Response in the Department of Fish and Game.

He has ten years in California. He was Captain of the Port. He was in charge of the Coast Guard National Strike Force Team, which is the Coast Guard's equivalent to a federal oil spill response team.

He was heavily involved in the Exxon Valdez oil spill cleanup, and he was in charge of United States forces in the largest oil spill in the history of the world in Saudi Arabia.

He has both in environmental and industry support, and I certainly highly recommend him. Thank you.

MR. HENDERSON: Senator Burton and distinguished Members of the Committee, I'm honored to appear before you today.

I provided you with a copy of my formal opening statement as well as a copy of my resume, detailing my 26 years in the Coast Guard.

1 I feel that the work that I do as the
2 Administrator to prevent and to prepare for and respond to oil
3 spills, and to restore affected resources after a spill here in
4 California, will probably be the most important work I do in my
5 professional career.

6 I feel that I am the right person to do the job,
7 in that I'm uniquely qualified to lead OSPR for the following
8 reasons. One is, I know the prevention and response business,
9 as Mr. Hight has mentioned. I know the issues here in
10 California, in that I have spent ten out of the last eleven
11 years in my Coast Guard career stationed here, working closely
12 with the state. Plus, I have a great staff backing me. Also, I
13 have a strong reputation of being able to work with people and
14 get things done.

15 I have three primary goals for OSPR. First and
16 foremost, I want to prevent any spills from happening. I feel
17 California has the best prevention program in the country, and
18 that's why I chose to leave the Coast Guard and come work for
19 the state.

20 Second, I want to be ready. It's not a question
21 if a spill will happen, but when a spill will happen, and we
22 must be ready.

23 And third, I want to partner whenever possible
24 with all stakeholders, which includes other federal government
25 agencies, the maritime industry, and environmental groups.

26 I've been very impressed with the dedication and
27 professionalism of the people I've met since I've taken this
28 job, and I'm looking forward to meeting the challenges that lie

1 ahead.

2 Thank you, and I'll be happy to answer any
3 questions.

4 CHAIRMAN BURTON: Questions, Members of the
5 Committee? Senator Knight.

6 SENATOR KNIGHT: No questions. I've had
7 conversations with Captain Henderson and find him imminently
8 qualified for the position, and wish him all the success in the
9 world.

10 MR. HENDERSON: Thank you, sir.

11 CHAIRMAN BURTON: Senator Karnette.

12 SENATOR KARNETTE: I'd just like to make a
13 comment about the difference between skimming and eliminating an
14 oil spill. I think a lot of people might not understand that
15 difference, and I was impressed when you explained it to me.
16 Would you tell me again what the difference is?

17 MR. HENDERSON: Sure. In an oil spill response
18 there's a number of tools in our toolbox that you can do to take
19 oil off the water.

20 Skimming is a method. It's kind of like a vacuum
21 cleaner where you can suck oil off the surface of the water.

22 You have dispersants, which is an additive that
23 you put to the oil that breaks down into the molecules that
24 allows it to break up and biodegrade more rapidly than if left
25 untreated.

26 You can do in situ burning, which means burning
27 it in place. Put a boom around it and set it on fire.

28 Again, there's a number of techniques. Skimming

1 just happens to be one.

2 Also a do nothing option. Sometimes if it's a
3 really environmentally sensitive area, and you can't get to it,
4 and it's not that heavily coated, you're better off doing
5 nothing than trying to get in and disturb the habitat.

6 SENATOR KARNETTE: I think more people need to
7 understand those things.

8 Thank you.

9 CHAIRMAN BURTON: I hope you all were paying
10 attention. There's going to be a written test.

11 [Laughter.]

12 CHAIRMAN BURTON: Witnesses in support.

13 MR. NAPOLI: Good afternoon. My name is Tom
14 Napoli. I'm the President of the California Association of
15 Professional Scientists. We represent approximately 3,000
16 scientists employed by the state in various agencies.

17 A number of employees are OSPR scientists, and we
18 would like to testify that our members strongly support the
19 confirmation of Harlan, and very worked with him over the last
20 ten years or so, and have full confidence in his ability as
21 Administrator.

22 Thank you.

23 CHAIRMAN BURTON: Do you have family with you
24 here to introduce?

25 MR. HENDERSON: No.

26 CHAIRMAN BURTON: Any witnesses in opposition?
27 Hearing none, moved by Senator Knight. Call the roll.

28 SECRETARY WEBB: Senator Karnette.

1 SENATOR KARNETTE: Aye.

2 SECRETARY WEBB: Karnette Aye. Senator Knight.

3 SENATOR KNIGHT: Aye.

4 SECRETARY WEBB: Knight Aye. Senator Romero.

5 SENATOR ROMERO: Aye.

6 SECRETARY WEBB: Romero Aye. Senator Burton.

7 CHAIRMAN BURTON: Aye.

8 SECRETARY WEBB: Burton Aye. Four to zero.

9 CHAIRMAN BURTON: Congratulations, sir.

10 MR. HENDERSON: Thank you, sir.

11 CHAIRMAN BURTON: There will be a brief
12 five-minute recess. I have to answer a quick message from my
13 office, then I'll be right back. Five minutes.

14 [Thereupon a brief recess was
15 taken.]

16 CHAIRMAN BURTON: The Committee will be back in
17 order.

18 Wyatt T. Hart, Member, Youthful Offender Parole
19 Board.

20 Go ahead, sir.

21 MR. HART: Thank you, Senator.

22 Mr. Chairman, honorable Members of the Senate
23 Rules Committee, my name is Wyatt Hart, and I am honored to be
24 appearing before you today for review and confirmation as a
25 board member of the Youthful Offender Parole Board.

26 I would first like to take this opportunity to
27 introduce my wife, sitting on my right, and my family. My wife,
28 Susan; my son Todd, an attorney with the Orange County District

1 Attorney's Office, and his lovely wife Polita. And lastly, my
2 son Ryan, a First Lieutenant in the United States Marine Corps
3 who recently returned from deployment overseas with the First
4 Marine Air Wing. I am proud to have him with us today, or with
5 me today.

6 A list of my qualifications, work experience, and
7 goals has been previously submitted for your consideration. I
8 would like to give you a brief overview of them so I may then
9 respond to any questions that you may have.

10 Prior to my appointment to the YOPB last May by
11 Governor Davis, I was with the Orange County Sheriff's
12 Department, retiring in 1988 as a Captain and Division Commander
13 of Central Corrections. During my tenure with the Sheriff's
14 Department, I received first-hand knowledge of circumstances
15 surrounding troubled youth while working parole in economically
16 depressed neighborhoods.

17 I ran correctional facilities that housed both
18 adult and juvenile offenders. Obtained my secondary teaching
19 credentials and taught in five different high schools in Orange
20 County. I have worked with judges, county probation officers,
21 gang prevention services to steer youth in a positive
22 direction.

23 My deep passion for providing the youth of our
24 community with tools to better themselves did not stop upon my
25 retirement from law enforcement, but rather increased because I
26 had the flexibility to devote more time to this goal. My belief
27 remains that our youth are the future of our society, and they
28 can only succeed through understanding, guidance and

1 correction.

2 Since my retirement, I've been active in helping
3 troubled youth avoid drugs and gang prevention through local
4 preventions programs. I have served two terms as President of
5 the Capistrano Valley Boys and Girls Club, which works towards
6 helping children. I am still an active board member today.

7 I presently serve as an active board member for
8 Camp Cookie, an organization dedicated to working with battered
9 and abused children of Orange County.

10 Having first-hand experience with the
11 difficulties of the physically challenged has also provided me
12 the opportunity to work with ADA, the Spinal Cord Society, the
13 Reeve-Irvine Foundation, and presently as a board member for the
14 Fran Joswich Therapeutic Riding Center for the mentally and
15 physically challenged. I have also been active in the Casa
16 Colina Rehabilitation Hospital, and often work with families and
17 organizations regarding difficulties facing the injured and
18 their loved ones, many of them very young people.

19 As you can see, my commitment to helping our
20 youth succeed as individuals is long-standing, demonstrated by
21 my many years of volunteer service. That commitment, coupled
22 with my extensive law enforcement experience with juveniles,
23 provides the background for me to state that I am qualified to
24 serve on the Youthful Offender Parole Board.

25 Again, thank you for this opportunity, and I'm
26 available to answer any questions you may have. Thank you very
27 much.

28 CHAIRMAN BURTON: Thank you, sir.

1 We've got members of the Legislature that deal in
2 public safety issues and budget issues, and they have several
3 concerns about the CYA.

4 One is that the average stay of somebody in the
5 Youth Authority is longer than the stay in Corrections except
6 for murder. It's three months longer for robbery, almost a year
7 for assault, seven months almost eight months for burglary,
8 almost ten months for theft, almost twenty months for sex
9 offense, and eleven months longer for drug offense. Doesn't
10 make any sense to me.

11 MR. HART: Okay, I'm sorry. CYA, in reference to
12 the statistics --

13 CHAIRMAN BURTON: In reference to the fact that
14 you do less time, that people are doing less time, in
15 Corrections, where we figure they're probably a little bit more
16 hardened, than they're doing in the Youth Authority.

17 Now, part of that might be due to a
18 misunderstanding of the Board's members as to what available
19 confinement time means. What do you think that means?

20 MR. HART: Available confinement time.

21 CHAIRMAN BURTON: Yes.

22 MR. HART: My understanding of available
23 confinement time, or ACT, it was set by the Legislature to make
24 sure that juveniles do not spend more time for a specific crime.

25 CHAIRMAN BURTON: More time.

26 MR. HART: Not more time.

27 CHAIRMAN BURTON: So, it's like a ceiling. It
28 doesn't mean that's the sentence.

1 MR. HART: No, it means it's the time available
2 in the Youthful -- in the Youth Authority.

3 CHAIRMAN BURTON: Well, in the letters that we
4 got both from you and Mr. Herron, both of you referred to it as
5 actual confinement time.

6 MR. HART: Yes, sir.

7 CHAIRMAN BURTON: In other words, it's like
8 available time means you can't hold them longer than. It
9 doesn't mean that you have to hold them for that period. It
10 just means you can't hold them for a period longer than that;
11 right?

12 MR. HART: That's correct.

13 It was my choice to use the word actual,
14 available, which to me was the actual available time a ward
15 could spend in the Youth Authority.

16 CHAIRMAN BURTON: It really means the most time
17 they can spend.

18 MR. HART: Absolute maximum.

19 CHAIRMAN BURTON: Yeah, the most.

20 It is seems that the Board, you know, and I mean,
21 when we're saying "the Board" I mean the Board, because I'm not
22 happy with the whole Board.

23 But the Board seems to think that that's like the
24 mandated time to be served, which may explain why, you know,
25 you're better off being in San Quentin than you are in the Youth
26 Authority; you get out earlier.

27 MR. HART: Senator, I can't speak for the whole
28 Board, but from a personal standpoint, I think that the time --

1 I agree with what you're saying as far as available confinement
2 time. And I think that they do a pretty good job in reference
3 to rehabilitation and training.

4 CHAIRMAN BURTON: As I recall, it seems that if
5 wards have a problem, it seems that they kind of get
6 automatically longer time added to their stay than maybe some of
7 the events would warrant. You know, some people get, I forget
8 exactly what the time added on was, but it was like, for someone
9 having a fistfight, which, you know, is something they shouldn't
10 do, but some kids do if they're going to a private school even.
11 And all of a sudden, they seem to add on time like they're
12 adding lunch down there.

13 It doesn't make any sense to me, and it doesn't
14 make any sense to the Budget Subcommittee people.

15 MR. HART: Yes, sir. Well, I can certainly
16 appreciate your concern, Senator.

17 In reference to when you're in a secured
18 environment, such as the Youth Authority, I think one of the
19 purposes there, at least as I view the purpose for the YOPB, is
20 we're kind of the checks and balances.

21 The Youth Authority, whenever something actually
22 has the mandate of discipline or placement, you know, of this
23 type, and so they bring that to us after they've had their
24 hearings and findings, appeal process.

25 CHAIRMAN BURTON: You add the time.

26 MR. HART: We look at the time and either agree
27 or disagree. Not always --

28 CHAIRMAN BURTON: You're the ones who have to add

1 the time?

2 MR. HART: Yes, sir. But we don't always agree
3 with them, but on occasion we do. But we monitor, at least for
4 my speaking only for myself, I would monitor, number one is
5 probably the commitment offense. Secondly, the seriousness of
6 the offense, the consistency and the time, length of time, for
7 example, getting it before the Board.

8 CHAIRMAN BURTON: What's the commitment offense
9 have to do with the misbehavior by the ward in confinement?

10 MR. HART: Well, if, for example, let's just say
11 for example, a simple example would be if the person was in
12 there for assault and battery, stomping someone with their feet,
13 creating some kind of injury, and he continued that kind of
14 behavior while he was in there, and was in continuous fights and
15 trying to injure someone, that would be something we would take
16 into consideration.

17 We would also take into consideration, an example
18 would be that where the fight took place. If it was between two
19 roommates, for example, that would be one scenario. Should it
20 be in the school where a simple fight could then turn into a
21 major riot, endangering other wards and staff as well, then that
22 would certainly lead us to give consideration to the seriousness
23 of it.

24 CHAIRMAN BURTON: In fact, I think, as I recall,
25 if you attack the staff, that that's actually, I think, a crime.

26 MR. HART: It can be.

27 CHAIRMAN BURTON: In other words, there's a
28 difference if you get in a fight with your roommate, a fight in

1 the yard, or a fight in the dining hall? What's the difference?

2 MR. HART: Well, I think it's a matter of safety,
3 Senator. I think, for example, if staff have to move very
4 quickly and swiftly to defuse an altercation in an area where a
5 fistfight between two, or sometimes one group are ganging
6 against another group --

7 CHAIRMAN BURTON: I'm talking about me against
8 you, not them against them; not a gang.

9 MR. HART: An individual, even those kind of
10 fights in the right circumstances, Senator, could lead to a
11 major riot.

12 And the staffing, where you have, you know, two
13 or three staff, they have to move swiftly, and they have to get
14 in and, you know, break up the fight.

15 So those, I mean, I'm just giving you some of the
16 areas that we would look into and consider at the time we're
17 looking to either confirm or not confirm the recommended time.

18 CHAIRMAN BURTON: So, the Youth Authority would
19 take a look at the facts. I guess the Youth Authority meaning
20 whoever's the institution; right? Running the institution.

21 MR. HART: The staff.

22 CHAIRMAN BURTON: And they say you ought to give
23 him six more months, and then they go to you with a paper
24 recommendation, I mean like the file, a folder, or what?

25 MR. HART: Yes, sir. It's the DDMS process,
26 which is the disciplinary decision making system.

27 The incident occurs. The staff member will write
28 a report. They will take -- they will look into it. They

1 will -- we'll have a hearing for the young man, and he has an
2 opportunity to appeal that hearing.

3 CHAIRMAN BURTON: Before you or before the --

4 MR. HART: Yes, all of that is done before it
5 comes to the Board. And when the Board --

6 CHAIRMAN BURTON: No, I mean like before you, not
7 prior to you. In other words, they appear before the Board, or
8 they get a chance to make their case at the institution, not --

9 MR. HART: Yes, sir. They get a chance,
10 opportunity, to make it --

11 CHAIRMAN BURTON: They do not appear before the
12 Board?

13 MR. HART: Not at that time. They go through all
14 that process at the institution and through staff, and then the
15 staff brings up their recommendation to the Board for review.

16 CHAIRMAN BURTON: If you're the ones that decide,
17 wouldn't it make more sense, I guess depending on if it's a
18 week or six months, wouldn't it make sense for them to be able
19 to appear before the Board?

20 MR. HART: I'm sorry, I didn't understand the
21 question.

22 CHAIRMAN BURTON: If you are the ones that really
23 impose the sentence -- you impose the sentence; right?

24 MR. HART: Yes.

25 CHAIRMAN BURTON: In other words, you impose it
26 by either saying yeah or no.

27 MR. GALINDO: If I may, honorable Senator, I'm
28 the Chairman of the Youthful Offender Parole Board, Raul

1 Galindo.

2 If I can add, the average stay of a ward in the
3 YA is governed by the behavior of the ward.

4 Yes, he comes before us.

5 CHAIRMAN BURTON: How about in prison? Good
6 time, time taken off, getting in fights, losing good time
7 credits. Same deal.

8 MR. GALINDO: Right, and we do grant time cuts.

9 CHAIRMAN BURTON: No, no. The point is, same
10 deal, prison-wards. Longer if you're a kid than if you're an
11 adult in state prison.

12 MR. GALINDO: I think the majority of the wards
13 in the YA are immature as compared to the people in CDC. And
14 they act more impulsively than the people in CDC.

15 Fights, you know. There is a difference. A
16 fight, like you said, between two people --

17 CHAIRMAN BURTON: You're going to be coming up
18 for your own confirmation; right?

19 MR. GALINDO: I hope so.

20 CHAIRMAN BURTON: So why don't we --

21 MR. GALINDO: Anyway, just only that --

22 CHAIRMAN BURTON: Do you want to come and testify
23 at his hearing?

24 Why don't you just let us talk to the gentleman,
25 sir?

26 MR. GALINDO: No problem.

27 CHAIRMAN BURTON: Then, if we need expert
28 testimony, we'll bring you back.

1 MR. GALINDO: Thank you.

2 MR. HART: Thank you, Mr. Chairman.

3 CHAIRMAN BURTON: I guess the question is, do you
4 know why the ward would not be able to appear before the
5 Youthful Offender Board if you're dealing with his length of
6 term, or her length of term?

7 MR. HART: Only because I believe it's the
8 procedure.

9 CYA, the California Youth Authority has
10 responsibility for the discipline of those that are --

11 CHAIRMAN BURTON: You add the time. They don't
12 add the time. They make a recommendation. It's like, you know,
13 you were the sheriff, right, or deputy.

14 MR. HART: Right.

15 CHAIRMAN BURTON: And you recommend disciplinary
16 action -- let's make it a police commission, because I don't
17 know how the sheriffs work.

18 But the captain recommends disciplinary action
19 against the beat cop. It goes to the commission. They impose
20 the sanction, not the captain.

21 MR. HART: Yes, sir, after checks and balances.
22 That's correct. So we do -- we do that.

23 CHAIRMAN BURTON: And the cop, as I recall, at
24 least in my city, they can appear before the commission?

25 I'm just wondering, and maybe the Secretary could
26 tell us, would it be burdensome for the person, for the ward, to
27 appear before the Youthful Offender Board when they're adding
28 time to him?

1 SECRETARY PRESLEY: It's my understanding --

2 CHAIRMAN BURTON: For the record, Secretary
3 Presley.

4 SECRETARY PRESLEY: It's my understanding,
5 Mr. Chairman, that the Youth Authority has an appeal process
6 that they exercise and go through. And then, when that's
7 completed, they make their recommendation to the YOPB. It could
8 be for 90 days, or 6 months, or whatever. And they can agree or
9 disagree. Sometimes they disagree, and sometimes they agree.

10 CHAIRMAN BURTON: That wasn't really the
11 question.

12 As long as we're at that, maybe somebody could
13 give us the percentages of agreement and disagreement.

14 But the question is, what would be the problem
15 with the ward, who may be getting six months added to a two-year
16 time, which in theory could be a 25 percent increase or so in
17 the time that they're doing, what would be the problem with him
18 being able to make his case before, shall we say, the judge
19 who's imposing sentence?

20 I mean, there may be a problem; I don't know.

21 SECRETARY PRESLEY: It would be a procedural
22 problem, but I'm sure, you know, that you can work that stuff
23 all out.

24 The Youth Authority has a system, and that's the
25 way it is now.

26 CHAIRMAN BURTON: The Youth Authority's invested
27 in the deal. Their responsibilities --

28 SECRETARY PRESLEY: But in the final analysis,

1 they can only make a recommendation to this Board, and they have
2 the final word.

3 CHAIRMAN BURTON: The Board's the one that
4 approves, disapproves.

5 Can they modify the recommendation?

6 SECRETARY PRESLEY: They can.

7 CHAIRMAN BURTON: All right, so they're the ones.

8 SECRETARY PRESLEY: I hear what you're saying.
9 You're saying, why doesn't the ward get in front of the Board
10 sooner? I think that's what you're saying.

11 CHAIRMAN BURTON: I don't know. Maybe there's a
12 reason with so many of them. Maybe it's a hardship. Maybe who
13 knows what? I don't know if there's a valid reason why they
14 don't.

15 SECRETARY PRESLEY: I think it works pretty well
16 like it is, frankly.

17 CHAIRMAN BURTON: Well, you're not in there doing
18 more time than somebody in prison. It works well for me, too.

19 SECRETARY PRESLEY: No, I've sat on this Board
20 myself, and I know, I think, how that works.

21 And the only thing I see you're saying is, bring
22 them earlier before the Board, and I don't know if that would
23 solve anything, because they've got the final say anyway.

24 CHAIRMAN BURTON: I'm asking why not. I'm not
25 necessarily advocating it, but I'm asking why not? And if
26 somebody can't say why not --

27 SECRETARY PRESLEY: There is no absolute why
28 not. It could be done. But procedurally, it would take some

1 changes. I don't know that the net results would be much
2 different.

3 CHAIRMAN BURTON: How many of the people they
4 keep, do you know, a percentage of the wards are kept for the
5 maximum time?

6 MR. HART: I don't know the statistics on that,
7 Senator. When you say by the maximum time --

8 CHAIRMAN BURTON: Now we're talking about the
9 available confinement time.

10 MR. HART: Available time, to the end of it.

11 CHAIRMAN BURTON: You can't keep them longer
12 than.

13 MR. HART: I'm not sure what that percentage is,
14 but I'm quite sure that we could get it for the Senate. I don't
15 know off the top of my head what that percentage is.

16 MR. PRESLEY: Mr. Chairman, we are working on
17 this, Mr. Chairman. We had a discussion about this about a week
18 or so ago.

19 One of the reasons that I always get that we
20 can't come up these kind of figures is, we don't have the
21 technology to do it, that we can do it out of a shoe box. So,
22 we decided, okay, do it out of the shoe box, because we've got
23 to come up with these kinds of stats and answers.

24 CHAIRMAN BURTON: One of my favorite programs is
25 the drug program there. Have you had a chance to witness
26 exactly what they do in the drug programs?

27 MR. HART: No, Senator, I haven't. Although, the
28 Chairman -- we are working out a system where -- my schedule, I

1 do not set my schedules, so I haven't been allowed to. I have
2 talked with some of the instructors.

3 We are presently working on, with the Chairman, a
4 program so that we, one day a week, as long as we can not have a
5 backlog in cases, to -- that we'll take a training and a
6 visitation day so that we can start going out and actually
7 sitting through the programs as much as possible.

8 CHAIRMAN BURTON: Probably needs some training to
9 evaluate, although I think with your history in law enforcement,
10 you could probably figure it out.

11 But I don't know if it takes training to see what
12 they're doing. There's over a thousand wards waiting to get
13 into a program.

14 MR. HART: Yes, sir.

15 CHAIRMAN BURTON: I don't know if that's a
16 function of desire, or lack of funds, or both.

17 We met with the CYA people, and I went into this.
18 I don't know if you were there, Bob, or not. But a year ago,
19 when they had the program it was like a year program. And I
20 think they've now shortened it to nine months, which in most
21 drug programs, you know, are like 28 days. For some reason,
22 they keep somebody in a program for nine months.

23 If they're in program for nine months, somebody
24 isn't getting in because of the available slots. And we tried
25 to impose upon, I think it was the Director, what we thought was
26 the importance of reducing the time of the programs. They can
27 do after-care programs with people that would volunteer, and
28 whatever, AA, NA, PA programs where you have recovering addicts

1 and drunks that are happy to crime in and try to straighten kids
2 out, because that's part of their whole recovery. And we found
3 out they don't utilize that much.

4 And then, what you ought to really take a look at
5 if you want to really feel good about what they're doing, is see
6 their coloring books. I mean, they have books for these kids as
7 part of a drug program, it looks like they're giving it to
8 six-year-olds in kindergarten. That's their program.

9 I mean, to me that's a disgrace because, one, if
10 these kids don't come out clean and sober and better off,
11 there's no sense in having them in. And if they come out worse,
12 there's really no sense in having them in.

13 Senator Knight.

14 SENATOR KNIGHT: Thank you, Mr. Chairman.

15 I was just a little confused. Does the ward ever
16 get a chance to plead his case before the Board?

17 MR. HART: Yes, sir, he does.

18 The process, Senator, is that the staff do the
19 investigation, and they have a procedure. When the procedure --
20 he also has -- they tell him what their findings are, and he has
21 the ability to appeal. And if they appeal, it goes to the
22 appellate or the appeal process.

23 At the conclusion of that, he is brought to us
24 for a DDMS hearing, which is a disciplinary hearing, at which
25 time we look at -- we go over the entire incident. We talk to
26 staff. We question staff. We also talk to the ward in
27 reference to that. Then we either concur with or change the
28 recommendation.

1 SENATOR KNIGHT: Secondly --

2 CHAIRMAN BURTON: I'm missing it. I thought they
3 didn't go to the Board.

4 We're talking about the added time. We're not
5 talking about the initial.

6 MR. HART: No, the added time.

7 Senator, I thought you meant during the
8 investigation.

9 But no, they come to the Board, DDMS hearings.

10 CHAIRMAN BURTON: So the discussion we had didn't
11 have to be had? Is that what I'm hearing?

12 SENATOR KNIGHT: Kind of.

13 SECRETARY PRESLEY: It's what we pointed out. It
14 comes to the Board eventually. They have the in-house processes
15 first.

16 CHAIRMAN BURTON: No, no. Before they make their
17 decision, the ward comes -- this is for the added time -- and
18 the ward does come to you, or he's before you. You know, you
19 guys are there, and I'm the guy and you're the ward and you're
20 there, able to explain the whys and wherefores?

21 MR. HART: That's correct.

22 CHAIRMAN BURTON: You know how to cut through
23 stuff; don't you.

24 [Laughter.]

25 SENATOR KNIGHT: Well, I wanted to make sure.

26 CHAIRMAN BURTON: Very helpful of you.

27 SENATOR KNIGHT: Secondly, are the sentences ever
28 increased to coincide with the length of programs within the

1 institution?

2 MR. HART: On occasion through treatment, you may
3 have to move their parole consideration date forward for them to
4 be able to complete the program.

5 However, what we do, and I'm speaking for myself,
6 is that if there's some reason that he did not complete the
7 program because of his own doing, for example, disciplinary
8 problems, refused to go, refused to attend --

9 SENATOR KNIGHT: I'm talking initially.

10 MR. HART: But at that time, for example, if it's
11 something that didn't --

12 SENATOR KNIGHT: No extenuating circumstances.
13 Just, you know, you got a nine-month program, for example, on
14 drug rehab. Kid comes in.

15 Do you give him nine months so that he can
16 complete that program, as opposed to seven months?

17 MR. HART: If that program is felt to be needed
18 for his treatment and training, yes.

19 SENATOR KNIGHT: Thank you.

20 SECRETARY PRESLEY: Senator Burton and Senator
21 Knight, we spent some time with Senator Karnette on this issue a
22 week or so ago; this issue that we're talking about, where
23 there's more time for treatment.

24 And I think we all agree that when it is the
25 fault of the state, the state does not have the resources, they
26 don't have the programs, then that's unfair to the ward.

27 I think we're going to have to take the position
28 that if you've been here seven months, we'll say, and to

1 complete this program you've got to do two more, that we're just
2 going to have to start saying because -- and they're saying the
3 reason is, the fault of the state, they don't have their drug
4 program, they don't have the anger management, whatever it is,
5 we the Board is just going to have to start saying, they're
6 released.

7 That is unfair. That's really an unfair portion
8 of this.

9 CHAIRMAN BURTON: And you've been keeping them in
10 just because there's no program available?

11 SECRETARY PRESLEY: That has happened. It's
12 rare, but it's happened.

13 CHAIRMAN BURTON: I'll bet it's more than rare.

14 SECRETARY PRESLEY: I've been told it's less than
15 one percent, but even that's too much.

16 CHAIRMAN BURTON: We had heard that before. But
17 basically, you have a drug treatment program that is nine times
18 longer than the best drug programs anywhere in the country. I
19 mean, nine months in a drug program because, as I remember from
20 the discussion, you know, it's like, well, they do it one day a
21 week, or something. It makes no sense.

22 I mean, you do not need nine months for a drug
23 treatment program.

24 SECRETARY PRESLEY: Well, if he's already in
25 custody, and he's going to be in custody, that may not make that
26 much difference.

27 CHAIRMAN BURTON: Yes it does, because there's a
28 thousand people waiting to get into the program, and they can't

1 get in because somebody else is in there.

2 SECRETARY PRESLEY: Well, they've got this
3 program full, though, and they do other things. One day they
4 may be in anger management.

5 CHAIRMAN BURTON: Bob, trust me. You do not need
6 nine months to do a drug rehab program. There are 28-day
7 programs anywhere in the country, and then the program goes for
8 the rest of their life. But they do not have to be in the
9 actual program for 28 days.

10 And the other part of it is, in theory, that
11 there should not be any drugs or booze available to the ward
12 there. So therefore, after the 28 days, they are not going to
13 be slipping, and they probably won't slip, if they do slip,
14 until they get out. And hopefully, after they do the 28 days,
15 they've got the after-care programs which they can do at night,
16 do in the mornings, whatever, with these other people coming in
17 and talking to them, and having their own AA meetings, and their
18 own group stuff.

19 Because otherwise, one, there isn't any room, and
20 some guy's doing extra time because the state's got a hell of an
21 idea: Let's do nine months; it used to be a year.

22 Make it four years, nobody gets out.

23 SECRETARY PRESLEY: I thought we were making
24 progress. We went from a year to nine months.

25 CHAIRMAN BURTON: Bob, you've been making
26 progress since you've been there.

27 SECRETARY PRESLEY: You've got a point.

28 CHAIRMAN BURTON: I'm tired of having a point. I

1 want to get results at some point.

2 SECRETARY PRESLEY: The people that are involved
3 in this say you just can't do it in 28 days.

4 CHAIRMAN BURTON: Well, the people involved in it
5 don't know what they're doing, one.

6 Two, I'd like to give you the copy of the books
7 that they use as part of their thing. I mean, it's the
8 damndest thing. It's almost like coloring books your kids are
9 going to get if they go to Denny's with you. Or, in our case,
10 grandkids.

11 SECRETARY PRESLEY: We'll take another look at
12 it.

13 CHAIRMAN BURTON: No, we're going to take a look
14 at it. I'll tell you, I'm very tired -- and I'm sorry that this
15 is coming on your watch -- I'm very tired of how the Authority
16 and the Board operate, and have operated, before either of these
17 gentlemen were appointed. And it's a waste of taxpayers' money,
18 and it doesn't do, to my mind, any good.

19 I'm sorry, Pete.

20 SENATOR KNIGHT: I was just going to, you know,
21 continue on.

22 It says here that according to the YOPB's
23 analysis, last year approximately 30 percent of the time adds
24 are given because of one of three different conditions: They
25 need more treatment or training; they have not completed a
26 program; or the ordered program is full and they have to wait.

27 So, it's more than one percent, Bob.

28 SECRETARY PRESLEY: Well, the program's full and

1 they have to wait, that's the part that I'm saying is unfair,
2 and that's what I'm told is less than one percent of that group.

3 CHAIRMAN BURTON: In other words, it's 29 percent
4 for the two, and one percent for that. Tough to believe.

5 It's tough to believe because the Authority
6 arbitrarily sets the dates of these programs. You could set it
7 for any length you want. The ward's got no beef about it; we've
8 got no beef about it. And so, they're in there for a longer
9 time than they would be because they decided this ought to
10 really be like a 16-month program, whether you need it or not.

11 SECRETARY PRESLEY: I think it's good -- I
12 welcome you looking into it. We'll look into it with you.

13 CHAIRMAN BURTON: No, we're going to have the IG
14 look at it. I ain't got time to look at it.

15 SECRETARY PRESLEY: Well, okay.

16 CHAIRMAN BURTON: I mean, one, lack of
17 availability.

18 SECRETARY PRESLEY: Whatever it is, we'll look
19 into it with them. We're just as eager as you are to find out
20 if there are problems with it.

21 CHAIRMAN BURTON: Either way, because every
22 time --

23 SECRETARY PRESLEY: Because our objective is the
24 same at yours. We want to save the taxpayers money. We want to
25 make this run as smoothly as we can. We'll be glad to look
26 into it with you or IG, or whoever wants to do it.

27 CHAIRMAN BURTON: I feel like Bill Murray in
28 "Groundhog," I've heard this before.

1 SECRETARY PRESLEY: But the one thing that we've
2 conceded with Senator Karnette, you know, that when it's not
3 ward's fault, it's the fault of the state, they either don't
4 have the resources, whatever reason, then they should not be
5 held.

6 CHAIRMAN BURTON: But then you know what you
7 ought to do? Do we need a law that says, you have to come to us
8 and tell us exactly what the length of every program is, and
9 justify it, before you can enact it? Because you can put the
10 program in at any length of time you want, and the kid can't get
11 out until he finishes a program. Where he could have passed a
12 test in two months, but we decided to make it eight. That
13 doesn't make sense.

14 I mean, if you have a legitimate program, a
15 legitimate time, and the kid's a screw-up and doesn't do it,
16 then you think there's some benefit to who knows who, to who
17 knows what, to keep them another four months, or whatever it is,
18 you know, that can be open to question.

19 I mean, other than that, I just don't think
20 because, you know, because the length of the programs are -- if
21 we didn't beat you up, the drug program would have been a year.
22 We beat you up, so now it's nine months, so nobody's going to
23 have to stay an extra year. They'll only have to stay an extra
24 nine months.

25 I mean, it shouldn't work that way. The length
26 of the program should be determined by people who know what
27 they're doing.

28 Senator Karnette.

1 SENATOR KARNETTE: I was wondering about
2 recidivism. Do you keep track of the young people that are
3 released and whether or not they return? Is there any way to do
4 that?

5 MR. HART: You know, I'm sure they may have some
6 statistics. I'm not aware of them. I don't have them with me
7 today, but I can certainly talk with the staff and get whatever
8 facts that we have from CYA and get it back to you, Senator.

9 SENATOR KARNETTE: I would really like to know
10 that, because if the programs are effective, and maybe the ones
11 that don't come back -- of course, there may not be a
12 correlation -- but if they have these programs, we would hope it
13 would help them so they wouldn't have to return.

14 SECRETARY PRESLEY: On that question, we'll get
15 specific figures, but I think they're about 50 percent. I've
16 been told they're about 50 percent. Half and half: Half make
17 it, and half don't.

18 SENATOR KARNETTE: For how long?

19 SECRETARY PRESLEY: I don't know how long.

20 SENATOR KARNETTE: I would like to know how far
21 in the future.

22 SECRETARY PRESLEY: Probably during their parole
23 periods, what I would guess.

24 CHAIRMAN BURTON: If they're keeping them for the
25 maximum time, there ain't no parole period.

26 SECRETARY PRESLEY: That happens occasionally.

27 CHAIRMAN BURTON: I think when the Chairman is
28 up, we'll give a list of statistical information that we want,

1 including: What are the programs; what's the length of the
2 programs; why are the programs as long as they are, and; what is
3 the benefit either for the ward, or the state, or to somebody,
4 for the program.

5 SECRETARY PRESLEY: I'm sure he's taking notes
6 and we'll have that, and justification.

7 CHAIRMAN BURTON: I mean, this is getting very
8 close to like BT was, and some of the others, and find out this
9 isn't in the budget for it.

10 Senator Romero.

11 SENATOR ROMERO: Thank you.

12 I was reading through your short-term goals, your
13 stated short-term goals. One of them in particular interested
14 and concerned me.

15 Your fourth goal states that you would like to
16 enhance programming and parole services for female wards. And
17 you go on to say that you would like to make services provided
18 to females equal to those provided for males, to the extent
19 feasible.

20 Can you explain what you mean by this? And can
21 you draw for the Committee a comparison of the services that are
22 available to men, to male wards, which perhaps are not available
23 to females?

24 MR. HART: I would just say probably, just to go
25 right to the main issue to answer your question is, for example,
26 parole services, after parole service. For example, the males
27 have a TRP, transitional residential program, for example.

28 SENATOR ROMERO: That was in your long-term goal,

1 I noticed.

2 MR. HART: Yes, and they kind of dove-tail
3 together, because we don't have that for the females.

4 SENATOR ROMERO: There is no transitional program
5 for the females?

6 MR. HART: No, ma'am. To my knowledge, there's
7 not.

8 And I just think that in many of the cases,
9 whenever we are taking someone after they've been incarcerated,
10 or they've been confined or placed at the California Youth
11 Authority for an X period of time, that the sudden release back
12 into the community is maybe unfair. And allowing them a gradual
13 reentry would be helpful to them, and also would help us provide
14 them more of the parole services that are available: jobs,
15 education, and stuff of that nature.

16 SENATOR ROMERO: Any other programs that you have
17 noticed that are not available to female wards?

18 MR. HART: I would have to -- I would have to
19 kind of maybe try to refer to my notes. But for example, I
20 don't think that they have quite as many vocational trainings in
21 their facilities as maybe they do in the male facilities.

22 SENATOR ROMERO: I would just say I think this is
23 an issue of concern for Women's Caucus in particular. We've
24 increasingly taken a look at incarcerated women, and again, this
25 would apply to the minors as well.

26 I would hope that the TRP issue would be
27 transitioned to do the short-term list, as opposed to the
28 long-term goals. That's very effective in the success rates and

1 preventing the recidivism from that ultimately occurring. So, I
2 would urge that to be done expeditiously.

3 Senator Burton, I would just point out as well,
4 too, again, just taking a look at the composition of the Board,
5 there are no women members of the Board. I think that's a
6 problem.

7 I would hope for the distinguished gentleman
8 sitting in the front row again, there are two vacancies that are
9 going to be coming up shortly. I would hope that we would begin
10 to see some women candidates being brought forward.

11 And in particular, given that you did raise the
12 issue, I appreciate that you raised the issue. I think it's a
13 concern that needs to be addressed. I would hope that we can
14 get some female nominees for this, what I consider to be a very
15 important board.

16 CHAIRMAN BURTON: Do you know how your Board
17 evaluates the quality of the programs that they have in the
18 Youth Authority?

19 What I mean you, the Board. Do the members of
20 the Board look at the programs to see whether they're available,
21 what they do, how they work?

22 MR. HART: Yes, sir. Basically whenever we, at
23 the initial hearing, if I'm answering your question properly, is
24 that we recommend -- we get recommendations from the staff
25 because they're the experts. They're the one that spent the
26 time with the youth, and we spent time with the youth also. And
27 then we recommend programs for them.

28 CHAIRMAN BURTON: Do you have any idea whether

1 the programs work or make sense?

2 MR. HART: To my knowledge, in the short time
3 I've been there, I think that they do work. And we mainly do
4 that by talking with the staff on the criteria, but also talking
5 with the wards. And then we monitor. We're able to monitor
6 them, for example, while they're in the facility, and also after
7 they leave the facility.

8 I think the success of the programs that they
9 take can best be, you know, reviewed in that manner. I mean,
10 how they are acting, and how they have progressed.

11 So, after the program, we see them in a
12 controlled environment, and then we can monitor them in the
13 parole setting on the outside. And I would think that would be
14 our best bet as far as reviewing the success of the programs.

15 CHAIRMAN BURTON: Or even the common sense of the
16 programs.

17 You could order a program in which you know
18 whether or not the program's really available for the ward,
19 whether the ward's going to get in it, or what?

20 In other words, again, you could recommend the
21 drug program, and the ward could be 1001 instead of 1000 waiting
22 to get in.

23 MR. HART: My understanding, Senator, on that is
24 that basically whenever it's initial, when we set the time and
25 we order the programs, we order the programs, and then it's up
26 to the CYA, the California Youth Authority, for their placement
27 and to get them into the program at the proper time.

28 CHAIRMAN BURTON: Wouldn't it make sense that

1 when you order the program you say, Hey, is that available?

2 In other words, you do what you think makes sense,
3 but you don't even know whether or not -- like, one of the
4 things that we have picked up that the Board told the CYA person
5 that a kid needed to see is a psychologist. So, they've got one
6 shrink for 640 wards. By the time he probably got to see the
7 psychologist, either he was too far gone to need one, or might
8 have been out.

9 In other words, does the Youth Authority say,
10 yeah, you ought to take automotive shop, but unfortunately
11 that's full; let's put him in woodshop, to use a high school
12 phrase? They don't --

13 MR. HART: To my knowledge, no, Senator. And to
14 my knowledge, most of them get into the programs.

15 The specific drug program you're referring to,
16 the formalized drug program, which is nine months, but most of
17 the other programs will run six weeks, or eight weeks, or
18 whatever. But they also have --

19 CHAIRMAN BURTON: What would those programs be?

20 MR. HART: Anger management, for example. I'm
21 not certain. Anger management, parenting, employability skills,
22 gang awareness, those kind of programs.

23 CHAIRMAN BURTON: They're six weeks, and drugs
24 are nine months. Makes a lot of sense.

25 MR. HART: During their drug program, not to
26 defend the program, but during the drug program, they're
27 doing -- I think it's the amount of time that they spend at the
28 drug program, but they're also continuing with their education

1 and everything else during that nine-month period.

2 But we also have a pilot program at I believe
3 it's Dewitt Nelson. And it's been reduced down to a condensed
4 course on drugs, down to six to eight weeks, I believe it is.

5 CHAIRMAN BURTON: Do you know about the Inner
6 Wounded Child program?

7 MR. HART: I know -- I have a general knowledge
8 of it, yes, sir. It's only offered in the north, but I do have,
9 yes. It's an impressive program.

10 CHAIRMAN BURTON: Does anybody know what it is?
11 It sounds good.

12 MR. HART: Well, what it is? The Inner Wounded
13 program is, to my knowledge, there's many times that a child --

14 CHAIRMAN BURTON: You actually could have changed
15 your name to Johnson, and you could be sitting here.

16 MR. HART: I thought about that, Senator.

17 CHAIRMAN BURTON: You're just getting the brunt
18 of the whole operation.

19 MR. HART: That's fine, and I know he's feeling
20 good about it.

21 [Laughter.]

22 CHAIRMAN BURTON: We've got a few bullets left.

23 MR. HART: The Inner Wounded Child, I talked with
24 them sometime about it, is because, you know, some of the young
25 people we have, it is basically felt that sometimes a child is
26 scarred very deeply at a very young age. It could be three,
27 four, five years old. And that scar never changes, or that
28 fear, or that hatred never changes.

1 But the Inner Wounded Child, to make it
2 simplistic, is that they bring that child in, and they try to
3 take him back through, you know, conversation, and just reliving
4 their life.

5 CHAIRMAN BURTON: What happened to him as a kid
6 maybe is why he's here now.

7 MR. HART: It's why he's doing it. And then once
8 they find that, and he finds that out, then he or she is then
9 able to address it, and maybe get away from the violence, maybe
10 get away from the drugs, or whatever.

11 CHAIRMAN BURTON: It's available at five
12 facilities, which I guess you said are in the north?

13 MR. HART: I believe they're in the north.

14 CHAIRMAN BURTON: Five facilities. The maximum
15 capacity of the programs, in the 80s, and there's 212 waiting to
16 get in.

17 Who's in charge? Who's the one that determines,
18 and this is more to the Secretary, who determines like these
19 programs, let me just go through them quickly.

20 The informal substance, we know there's a
21 thousand waiting for the big one.

22 The Informal Substance Abuse, there's 465 on the
23 waiting list. Wounded Child, 212.

24 Impulse Behavior, there's a maximum capacity --
25 now, this makes no sense -- of 111; there are 36 in the program,
26 104 on the waiting list. So, I don't know why you've got slots
27 and people aren't waiting.

28 Domestic Violence, there's a maximum capacity of

1 94; 55 in and 51 waiting, which almost you could cop it out.

2 Relating to Females, 93 capacity; 45 in, 50 out.
3 That would actually, again, be a wash.

4 Anger Management, they're almost full up, but
5 there's 1600 waiting.

6 Is this the Board? This sounds like a very
7 screwed up place to me.

8 SECRETARY PRESLEY: That's all -- CYA is custody
9 and treatment. They have responsibility for all of that.

10 The Board, they're basically hearing officers.
11 They hear these cases that are brought before them.

12 CHAIRMAN BURTON: And the CYA's under your
13 umbrella; right?

14 SECRETARY PRESLEY: [Nods affirmatively.]

15 CHAIRMAN BURTON: Has Senator Polanco seen this
16 stuff? He ought to.

17 Again, it makes their job pretty tough if they're
18 sending people to a movie that's sold out, and kids are waiting
19 in line in the rain, basically. And it doesn't make them look
20 too good when something's not --

21 SENATOR KARNETTE: I have a question about who
22 decides what programs are given to the young people, the wards
23 in the CYA? Who takes care of the curriculum? Who actually
24 does the teaching or the leading?

25 SECRETARY PRESLEY: CYA.

26 SENATOR KARNETTE: Who are they?

27 SECRETARY PRESLEY: When they first come in, they
28 have what's called an initial hearing conducted by the Board.

1 And the Board, in reviewing their record, and their crime, and
2 everything that's taken place, makes a determination of what
3 kind of programs that they think, the Board thinks, they should
4 engage in.

5 SENATOR KARNETTE: Are these academic as well as
6 vocational, as well as social, as well as --

7 SECRETARY PRESLEY: All of that.

8 SENATOR KARNETTE: -- as drug?

9 SECRETARY PRESLEY: But then, after they do that,
10 Senator Karnette, then the Youth Authority is the provider of
11 the programs, implementor of the programs.

12 SENATOR KARNETTE: They hire the teachers or the
13 leaders?

14 SECRETARY PRESLEY: They do all that.

15 The Board is very small, really.

16 SENATOR KARNETTE: And they're not under the
17 control of any kind of public -- it's public, but it's not like
18 teachers in public schools.

19 SECRETARY PRESLEY: They're under the control of
20 the Youth Authority, the Director of the Youth Authority.

21 SENATOR KARNETTE: So, the teachers and the
22 leaders, they have to be certificated and all of that?

23 SECRETARY PRESLEY: Right. The Youth Authority,
24 I think I told you the other day, is organized into a school
25 district. They're actually a school district.

26 SENATOR KARNETTE: So, then there is a
27 superintendent?

28 SECRETARY PRESLEY: Right.

1 SENATOR KARNETTE: And who is that?

2 SECRETARY PRESLEY: They just got a new one. The
3 one retired, the lady. It was a woman in charge.

4 SENATOR KARNETTE: I think that that might be
5 something to look at, if the superintendent --

6 SECRETARY PRESLEY: The superintendent works --
7 reports directly to the Director of the Youth Authority.

8 SENATOR KARNETTE: Do they report on attendance
9 and all of that?

10 SECRETARY PRESLEY: All of that stuff.

11 SENATOR KARNETTE: That might be a route to
12 travel.

13 CHAIRMAN BURTON: Any other questions.

14 Witnesses in support.

15 MR. BLANKENSHIP: Mr. Chairman, Members of the
16 Committee, my name is Don Blankenship. I'm currently the Chief
17 of the Bureau of Investigation of the Orange County District
18 Attorney's Office. I've been in law enforcement for over 30
19 years and have worked my way through the ranks with a stop for
20 14 years as the President of the Santa Ana Police Officers
21 Association.

22 Thirty years ago this July, I will have known
23 Wyatt Hart, and I'm proud to say he is my best friend. Wyatt
24 not only -- I'll be brief -- not only can do this job, is a man
25 that will vote his conscience and make you proud.

26 That's all, Senator.

27 CHAIRMAN BURTON: Any witnesses in opposition.

28 Before we come to the vote, and, you know, this

1 would be to Mr. Herron, too, you all have a responsibility that
2 I think goes deeper than what you may think it to be. I think,
3 just listening here, I feel you've got a responsibility when the
4 Youth Authority -- I mean, the way they run their program makes
5 me wonder, would I believe them if they came in and said, "Give
6 another six months to this kid because he got into a fistfight
7 or something."

8 It just seems to me, as we went down these
9 records of vacancies and needs, which I do believe that the
10 Board's not aware of, because you assume, well, this is what
11 they do; they know what they're doing; all we're doing is this.

12 What we are going to do is, we're going to send
13 each of you a copy of the Inspector General's report which, I
14 think, there's going to be criticism in there, but a lot of it's
15 more systemic. I think it will help you do your job better
16 because you'll be able to say, "We're going to send this kid to
17 anger management. When can you put him in?"

18 I think you have to, because you've got the
19 responsibility of setting time for these kids. You're the
20 judges, in effect, of setting the time. And I think that you
21 can help us a great deal by putting their feet to the fire,
22 because I'm very unhappy with the operation of the Board, but I
23 think I'm more unhappy with the operation of the Youth
24 Authority.

25 For instance, again, I'm just looking at
26 something, the five most frequently ordered programs, and they
27 make sense. Victim awareness; know what it's like. There are
28 360 slots, 322 in it, 2,000-plus trying to get in.

1 The gang thing, which again, you know, when I was
2 a kid, it wasn't that much of a problem. Big problem now.
3 There are 689 slots; 553 wards, so you've got people in, and
4 1700 waiting.

5 Anger management, I said that they're almost full
6 up, but there's 1600 waiting, formal thing.

7 Voc. ed., which is a very big deal, because
8 hopefully these kids find out how to make a buck without robbing
9 people, they're maxed out, you know, give or take. There's a
10 waiting list only of 343. That's not bad.

11 But I think we should send to each member of the
12 Board a copy of this, and I think one to the head of the Youth
13 Authority.

14 We're going to be taking a closer look at this.
15 I'm sorry that you had to be first up at bat, bear the brunt of
16 how a lot of us feel. Presley got it. Susan Wallace got it.
17 Jerry Harper got it. The people on the Board didn't get it.

18 So, I think it's important for them to know
19 what's going on, because it'll just help you.

20 And I think that, you know, it's up to you also
21 to help. They make it tough for you to do your job. If they
22 were doing their job right in theory, we all would have been out
23 of here, and you would have been having a cocktail with your
24 family. So, you're bearing this.

25 I will move the nomination.

26 SECRETARY WEBB: Senator Karnette.

27 SENATOR KARNETTE: Aye.

28 SECRETARY WEBB: Karnette Aye. Senator Knight.

1 SENATOR KNIGHT: Aye.

2 SECRETARY WEBB: Knight Aye. Senator Romero.

3 SENATOR ROMERO: Aye.

4 SECRETARY WEBB: Romero Aye. Senator Burton.

5 CHAIRMAN BURTON: Aye.

6 SECRETARY WEBB: Burton Aye. Four to zero.

7 CHAIRMAN BURTON: Congratulations, sir.

8 MR. HART: Thank you very much.

9 CHAIRMAN BURTON: Mr. Herron.

10 MR. HERRON: Mr. Chairman, honorable Members of
11 the Senate Rules Committee, good afternoon. My name is Ronald
12 Herron.

13 I'm honored to be here today. I'm appearing
14 before you, as you well know, for a confirmation vote as a Board
15 member of the Youthful Offender Parole Board.

16 I would first like to introduce my wife and
17 family who are present here today in support of confirmation.
18 If my wife would stand up, that's my wife, Greta; and my mother,
19 Gail Herron; my sister, Michelle Herron; my brother, Mark
20 Herron; my daughter, Tiffany Herron; my daughter, Cherie. That's
21 my daughter Cynthia. She's a little shorter than the rest of
22 the family. And my daughter Tiffany.

23 FROM THE AUDIENCE: Michelle.

24 MR. HERRON: Michelle, I'm sorry.

25 [Laughter.]

26 MR. HERRON: They're twins.

27 CHAIRMAN BURTON: I've sure got a lot of
28 confidence in you already.

1 [Laughter.]

2 MR. HERRON: And my son-in-law, Gary.

3 Thank you.

4 A listing of my experiences and qualifications,
5 as well as my goals as a Board member of the Youthful Offender
6 Parole Board, are the subject of documents that you already
7 have.

8 Basically, just a bit about my philosophy;
9 although, I'm sure the Committee is aware that my career has
10 spanned over 32 years in the field of law enforcement.

11 I bring to the Youthful Offender Parole Board a
12 balanced approach to the challenges of rehabilitating and
13 transitioning California's youthful offenders back into the
14 community as successful, pro-social individuals. The balanced
15 approach that I speak of is comprised of services, education,
16 and treatment, with accountability as well as progressive and
17 independent thinking.

18 Relative on to my vision, my vision is an
19 after-care program that is community-based throughout the State
20 of California. I believe that the continuum of care is critical
21 to helping youthful offenders become contributing citizens in
22 their communities as well as enhancing public safety.

23 The most critical aspect of a treatment program,
24 I believe, is building an adequate bridge for youthful offenders
25 to successfully transition from a highly structured
26 institutional environment back into the community. That's the
27 tough part.

28 I look forward to working with the California

1 Youth Authority and focusing up on my vision. Given this brief
2 overview of my philosophy and my vision, I stand ready to
3 respond to the Committee's questions or issues.

4 CHAIRMAN BURTON: What factors do you think
5 contribute to the Board's keeping almost twice as many wards
6 until their available confinement time actually runs out?

7 MR. HERRON: There are several factors.

8 First of all, I want to state, Senator, that the
9 philosophy of the Youthful Offender Parole Board is to attempt
10 to parole wards prior to the expiration of their available
11 confinement time.

12 CHAIRMAN BURTON: Because?

13 MR. HERRON: Because the Board's feeling is, or
14 my feeling is, that the quicker you can get that kids back into
15 the community, the easier it will be for him to transition from
16 that institutional setting into the community.

17 CHAIRMAN BURTON: And you also have, it gives the
18 parole officers some --

19 MR. HERRON: Secondly, it gives the parole
20 officer some leverage so that the kid knows that if he fails,
21 but --

22 CHAIRMAN BURTON: Then why less paroles and more
23 full-time? It seems to run contrary to the first part, and
24 contrary to the second, even to the second part, where there's
25 no leverage.

26 And the kid, they know if they screw up, even
27 technically, you know, they're going to go back. Or, if they do
28 full time, they're out, and then they really have to do

1 something real bad.

2 MR. HERRON: And I can see that as a problem, and
3 I see that almost on a daily basis, to the point where kids are
4 coming in and demanding that you max their time out.

5 I think what I would point out, the idea in
6 returning the ward to the community in an expeditious manner is
7 so that he is able to take advantage of the services that the 16
8 parole offices in California have to offer.

9 CHAIRMAN BURTON: How many?

10 MR. HERRON: Sixteen parole offices --

11 CHAIRMAN BURTON: One-six?

12 MR. HERRON: One-six, sir.

13 CHAIRMAN BURTON: No wonder you keep them all in.

14 MR. HERRON: Pardon me?

15 CHAIRMAN BURTON: There's 16 youth parole
16 officers for whole state?

17 MR. HERRON: Yes, sir.

18 CHAIRMAN BURTON: What's the caseload? Is it
19 running 6,000?

20 MR. HERRON: I don't know, sir, what the caseload
21 is.

22 SECRETARY PRESLEY: I think that's offices.
23 Sixteen offices.

24 MR. HERRON: Yes, 16 offices. I'm sorry; what
25 did you think I said?

26 CHAIRMAN BURTON: I thought you said parole
27 officers?

28 MR. HERRON: No, offices.

1 CHAIRMAN BURTON: In the last three years, you've
2 doubled the amount of wards, you know, who stay until the end.
3 Do you have anything to attribute that to?

4 MR. HERRON: Some of that is what was discussed
5 earlier relative to DDMS based on negligent behavior within the
6 institution.

7 CHAIRMAN BURTON: In other words, they weren't
8 doing it before?

9 MR. HERRON: Some of it is by choice, sir, by the
10 choice of the ward.

11 CHAIRMAN BURTON: There is a small percentage
12 that choose to stay in so they don't have to deal with parole.

13 MR. HERRON: That's correct. There is a
14 percentage.

15 CHAIRMAN BURTON: According to, you know, what
16 we've seen through investigation, that doesn't account for a big
17 piece. There's some, but it's not like a big piece.

18 It's difficult for me to believe that, all of a
19 sudden now, there's more -- if you can call them kids -- messing
20 up in the Youth Authority today than there were three years ago.
21 I mean, certainly not twice as many.

22 I'd almost like to see what it's been the last
23 year since the new members of the Board have been there.

24 So, no reason that you should, except, I guess,
25 you're the guys adding the time, but you wouldn't know, you have
26 no idea why it's twice as many in the last three years as it was
27 previously?

28 MR. HERRON: No, I don't, sir.

1 CHAIRMAN BURTON: Who would know that? That goes
2 against what you're talking about. I mean, if you have
3 basically gang bangers who don't want to be bothered with parole
4 because, I guess, if they're on parole, they can't hang out with
5 their buddies. If they're straight out, they can go back, and
6 as long as they don't do something, they're okay.

7 Yet, what the Board's doing is defeating that
8 thing of giving some after-care supervision, if you will, for
9 the kids when they get out.

10 MR. HERRON: Relative to the after-care
11 supervision, I want to make a differentiation -- I want to spell
12 out a difference.

13 There is ACT, which we've discussed at length.

14 CHAIRMAN BURTON: And you know what that means;
15 right?

16 MR. HERRON: Available, sir, confinement time.

17 CHAIRMAN BURTON: Maximum.

18 MR. HERRON: Available confinement time.

19 CHAIRMAN BURTON: It ain't the sentence. It's
20 the most they can serve.

21 MR. HERRON: That's correct.

22 CHAIRMAN BURTON: And the Board seems to think
23 it's what's supposed to be served.

24 MR. HERRON: That's not correct, sir. That's not
25 the policy of the Board.

26 CHAIRMAN BURTON: The figures indicate that it
27 may not be 100 percent policy, but it's a lot of it.

28 Again, back to if you let them out with parole

1 time, they're going to -- it would seem to me there would either
2 be more intense, or at least more leverage in the after-care, so
3 to speak, than if they're out with nothing to lose.

4 MR. HERRON: That's right. I agree.

5 CHAIRMAN BURTON: But yet, if not the policy,
6 which I think it's got to be the policy because it's twice as
7 much, at least what's happening to the figures goes against that
8 philosophy of getting them out there with some leverage on them
9 to at least behave for a while.

10 In theory maybe the first 30 or 60 days out of an
11 institution may be the toughest to stay away from old haunts and
12 bad friends, or whatever it is. And if they know they've got to
13 do that or they're going back in, they may give them 60 or 90
14 days at least on the right road. And then they may turn left
15 anyway.

16 MR. HERRON: Again, I'll state that the policy of
17 the Board is, when possible, is to release the child from the
18 institution --

19 CHAIRMAN BURTON: When is it impossible?

20 MR. HERRON: It's impossible if the child is a
21 threat to the public safety or to the community that he's going
22 to be paroled back to.

23 It's impossible, for example, Senator, if you
24 have somebody that's gang banging, and he comes to his parole
25 consideration hearing, and you know that he's an active gang
26 banger based on his record while he's been within the Youth
27 Authority. Then his parole plans say, "Release him back to the
28 community where he's failed so miserably, where he's surrounded

1 by gangs from whence he came. That's when he's a threat to the
2 community. He's exhibited through --

3 CHAIRMAN BURTON: So, he's been a gang banger
4 out, he's been a gang banger in. If he's a gang banger in,
5 whether you let him out earlier, you let him out at the maximum
6 time, he's going back to be gang banger, but at least you
7 haven't done it.

8 MR. HERRON: But in the interest, sir, of public
9 safety --

10 CHAIRMAN BURTON: I understand.

11 MR. HERRON: -- it would be wrong for me to grant
12 parole.

13 CHAIRMAN BURTON: At least you haven't done it.

14 MR. HERRON: No, sir. I have not.

15 CHAIRMAN BURTON: I understand that.

16 MR. HERRON: Public safety, it would be the
17 overriding concern of keeping the child to his ACT. Example, if
18 a child is up for a parole consideration hearing, and he has not
19 yet completed his high school diploma or GED, that can be made a
20 special condition of parole. That should not keep the child
21 within the institution. He can go out into the community.

22 CHAIRMAN BURTON: Does it keep him in? It
23 shouldn't.

24 MR. HERRON: No, it doesn't. I have not kept a
25 child in the institution.

26 CHAIRMAN BURTON: You've got 100 percent -- and
27 by you, I mean generically -- there's 100 percent increase of
28 people doing the maximum.

1 It doesn't make a lot of sense to me, in fact, in
2 some respects, and having served on the Public Safety Committee
3 too many years, that five, six, and seven years ago there seemed
4 to be a lot more activity, shall we say, than present. So, it
5 doesn't seem like -- I still don't understand why there's a 100
6 percent increase in the maximum time.

7 And again, both you and Mr. Hart, and he said
8 that was just, you know, a misnomer or something, in terms. But
9 when you talked about ACT, it was actual. Which said to us,
10 until the explanation, you thought actual meant they give you
11 that, that's the sentence.

12 MR. HERRON: No, sir.

13 CHAIRMAN BURTON: And so, that was just --

14 MR. HERRON: No, sir.

15 CHAIRMAN BURTON: Just idle curiosity, I assume
16 that people at the Board or someone, like they do for us here,
17 help prepare answers or something?

18 When people write the same answer, use the same
19 phrase, it always makes me think that some bureaucrat's helping
20 them. What you find is, it showed their mind set. I guess
21 not. Just both independently came to actual instead of
22 available.

23 MR. HERRON: And those terms have been used
24 interchangeably. But to me, available confinement time --

25 CHAIRMAN BURTON: Used interchangeably by whom?

26 MR. HERRON: -- is that amount of time that is
27 available, sir.

28 CHAIRMAN BURTON: Used interchangeably by whom?

1 MR. HERRON: I've heard people use it as actual.
2 I've heard people use it as available.

3 CHAIRMAN BURTON: People at CYA and staff at the
4 Board, which maybe tells us why things are screwed up? Because
5 they aren't interchangeable.

6 MR. HERRON: You're correct.

7 CHAIRMAN BURTON: If people are using them, it
8 just shows the mind set that they think, and I mean, it's clear
9 that both you and Mr. Hart understand the difference. But it's
10 like, you know -- and you've been here -- listening to the
11 results of bar exam so you'll know the answers when you come up.
12 It would seem it shows a mind set somewhere if the people are
13 using that, because that's not what it means.

14 And maybe we ought to pass a bill that takes away
15 "available" and says "maximum possible," and then nobody could
16 mistake it.

17 MR. HERRON: I understand.

18 CHAIRMAN BURTON: Again, you and Mr. Hart just
19 happened to be the first ones either out of the barrel or in the
20 barrel, because we have been very unhappy over the years with
21 this Board, very unhappy with the Youth Authority. And all we
22 ever get is, "It's getting better," and "we're doing this," and
23 "trust me." So, it concerns us.

24 The only answer to the 100 percent increase is if
25 there's more trouble.

26 A couple questions that we asked Mr. Hart, have
27 you ever reviewed the programs that are available to see if they
28 work or anything?

1 MR. HERRON: Yes, sir. I have visited -- I have
2 visited the special education program and went to lodge at the
3 northern clinic. I have visited the sex offender group home,
4 Pete's Group Home.

5 CHAIRMAN BURTON: What's the special ed. program?

6 MR. HERRON: On Win II Lodge, I visited it --

7 CHAIRMAN BURTON: What is it?

8 MR. HERRON: -- and spoke with the teacher.

9 CHAIRMAN BURTON: What is the special ed.
10 program?

11 MR. HERRON: For students who are identified who
12 need special educational services.

13 CHAIRMAN BURTON: Is it the same type of special
14 ed. as like in the public school, so to speak?

15 MR. HERRON: I think it's a bit more intense in
16 Win II Lodge, sir. Quite a bit more intense than in the public
17 sector.

18 I visited Pete's Group Home, which is a sex
19 offender group home, the only one in western Sacramento. I
20 visited with the owner and his wife there who run the group
21 home. I was very impressed --

22 CHAIRMAN BURTON: That's a group home. That's
23 not in a CYA facility.

24 MR. HERRON: No, it's an after-care program.

25 CHAIRMAN BURTON: I'm talking about the ones,
26 again, where -- and we went through this list -- where you
27 assign somebody to voc. ed, and there's no room, and the CYA
28 doesn't even tell you there's no room.

1 Have you had a chance to review the programs that
2 are within the CYA that are the programs that, if the guy
3 doesn't finish them, he gets added time sometimes?

4 MR. HERRON: I have also visited the Mountain
5 Public Service Program within the CYA.

6 CHAIRMAN BURTON: Which one's that, sir?

7 MR. HERRON: Mountain Public Service volunteer
8 program. These are the kids that go out to the different
9 counties throughout California. Their primary job is to help in
10 searches for people who are lost, like in the wilderness, and
11 that sort of thing. They teach them grid searches. They teach
12 them team work. They teach them that sort of thing.

13 CHAIRMAN BURTON: I would assume they are the,
14 shall we say, the nicest of the kids. They're not the hard core
15 gang bangers, go out on searches, and then the next thing you
16 know, they'll be searching for them.

17 MR. HERRON: I don't think so, Senator. I don't
18 think they're the hard core gang bangers that you would take out
19 into the wilderness.

20 I've also visited the parole violator drug
21 program, the new one at Dewitt Nelson. It's a four-month
22 program currently. There's seven people in their third week.
23 There's four people on orientation at Lassen Hall at Dewitt
24 Nelson.

25 I must say one thing about that, and you hear a
26 lot to the contrary. But when I was there, I spoke with the
27 program coordinator, who was Mr. Angeles, I do believe his name
28 was, and a youth correctional counselor. And they were spending

1 quite a bit of time with the kids in orientation. And in
2 talking to the wards who were waiting or in the orientation,
3 they were impressed that they were actually being focused upon,
4 and staff was talking to them, and they were having an exchange.
5 So, they were looking forward to it.

6 These kids were from Southern California. I did
7 not see any kids from Northern California.

8 CHAIRMAN BURTON: As I think you heard, we're
9 going to be sending you a copy of the IG's report, which
10 basically shows you there, under the best of circumstances,
11 you've kind of got a very difficult job because you're trying to
12 send kids to programs that, for many of them, they exist but
13 they don't exist because they can't get with them.

14 And then, it would seem to me that you want to
15 send somebody to a program, and they think, "Well, gee, maybe I
16 can do something. This will me." And then they've got to wait
17 six or seven months to get in the program. Probably isn't good
18 for their morale and isn't good for their behavior, and isn't
19 any good for the system. That may be one of the reasons why,
20 all of a sudden, they got into a fight with the guy next door
21 and got another four most. I don't know.

22 It would just seem to me, if there're no programs
23 available, you ought to figure something. And my big thing,
24 again, is formal substance abuse, five meetings a week,
25 hour-and-a-half a day. It's not much. Not much at all.

26 I'll bet this thing would be very interesting for
27 you all to read because it just kind of tells you, there ain't a
28 hell of a lot of intensive treatment here, whether it's anger

1 management.

2 The only thing is, they've got informal substance
3 abuse more than formal. They do ten meetings a week. And voc.
4 training, they do ten hours a week. Domestic violence, they do
5 one hour a week. That's really helpful. The murder group, I
6 guess, 187, two hours a week; pre- parole they do five, which is
7 good.

8 I mean, again, this isn't your problem. But the
9 more I look at this, the more we're just going to have to do
10 something with the Youth Authority or blow it up, because they
11 just don't have a concept of how to intensify these programs.
12 Somebody gets something at 10:00 o'clock on Monday, and by 10:00
13 o'clock on Tuesday, it's gone right out their head. And if
14 you're going to be in these programs that are trying to change
15 your mind set, you don't do it on a sort of casual like
16 English-A basis. You do it with intensive stuff.

17 And if they're doing basically victim awareness,
18 which is 14 weeks, so they do 5 a week, which at least that's
19 doing some.

20 But I mean, they just really ought to put the
21 stuff in full-bore, and I don't know what authority you have.
22 But when they come to you with stuff, and they come to you with
23 the recommendation about some kid should get extra time, why
24 don't you just ask them, "Did you ever put them in the program
25 they were supposed to get put in," and "He's still angry? What
26 happened?"

27 Well, he's had three whole hours, after waiting
28 six weeks or six months to get into it. He'd be more God damn

1 angry if they let him alone.

2 Senator Knight.

3 SENATOR KNIGHT: No questions, sir.

4 CHAIRMAN BURTON: Senator Romero.

5 SENATOR ROMERO: Thank you.

6 This is a seven-member board; there's two
7 vacancies. If one member doesn't show up, in terms of voting
8 is it a majority of the composition of the board to move
9 something forward, or is it a majority of those present and
10 voting? What is it?

11 MR. HERRON: It takes four of the seven. It's a
12 quorum.

13 SENATOR ROMERO: It takes a quorum. So, if one
14 member doesn't show, all four members there, then, you have to
15 be in agreement in order to move something forward.

16 MR. HERRON: There are five of us.

17 SENATOR ROMERO: Right, but I'm asking if one
18 person's absent, the remaining four --

19 CHAIRMAN BURTON: If one's absent, and it's a
20 three-to-one vote, what happens?

21 MR. HERRON: Then it doesn't go forward.

22 SENATOR ROMERO: Has this happened frequently? Is
23 this a problem with the vacancies.

24 MR. HERRON: Not to my knowledge.

25 SENATOR ROMERO: Let me ask you as well to
26 comment on the absence of the transitional group program for
27 female wards? What are your observations as to why this has not
28 yet been implemented or developed for female wards?

1 MR. HERRON: Let me preface it by saying I'm the
2 northern Board member, and so therefore, I stay north. And I
3 haven't conducted any hearings in the southern part of the
4 state, being the only northern member.

5 In the southern part of the state are where the
6 female wards are.

7 SENATOR ROMERO: So, the female wards are only
8 housed in Southern California?

9 MR. HERRON: In Ventura.

10 But my thought, if you will --

11 CHAIRMAN BURTON: So a female ward from
12 Sacramento ends up in Ventura?

13 MR. HERRON: Yes, sir.

14 CHAIRMAN BURTON: Close to home. Good for
15 everyone.

16 MR. HERRON: My thought is, and I concur with
17 what Mr. Wyatt -- Mr. Wyatt Hart's observation, that there
18 should be more employability programs. My understanding is,
19 the programs that are available consist of programs such as dog
20 grooming, and I believe housekeeping.

21 Whereas, on the male side out of Dewitt Nelson,
22 you have auto painting, auto mechanics. You have computer
23 skills. You have just a host of employability skill classes
24 that are focused on the male portion of the population.

25 CHAIRMAN BURTON: Was that doll grooming?

26 SENATOR ROMERO: I thought I heard dog grooming,
27 d-o-g.

28 MR. HERRON: That's my understanding. But again,

1 like I say, I have never been south, Southern California.

2 SENATOR KARNETTE: Secretarial classes they have,
3 too, but they need a lot more.

4 SENATOR ROMERO: Let me just ask again, I noticed
5 on the list of programs, there's one program called Relating to
6 Females Program.

7 MR. HERRON: Yes.

8 SENATOR ROMERO: Can you describe that, what that
9 is? The intent and purpose, and who goes?

10 MR. HERRON: Short and brief and to the point,
11 it's a class that addresses how males view females as objects,
12 and how males treat females. And it shows you the proper way
13 of understanding what no is, for example, what no means.
14 Understanding the proper way of talking to people, females
15 specifically, in a respectful manner. It's how to relate to
16 females, and it is a big problem.

17 Who would go to this class? A guy that is used to
18 having his way on the streets. A guy that is a player, if you
19 will, that has seven or eight women on the street views women as
20 objects. That's what that class is for.

21 SENATOR ROMERO: I think there's only 43 wards in
22 that program right now, in that class.

23 MR. HERRON: I wouldn't know.

24 SENATOR ROMERO: There's a long waiting list,
25 too.

26 Thank you.

27 CHAIRMAN BURTON: A guy who's willing to have his
28 way, would this be like sex offenders? People who physically

1 abuse women?

2 MR. HERRON: It can be, yes, sir. It can be.

3 CHAIRMAN BURTON: How would you assign somebody
4 to that class if they were not, say, for the want of a better
5 word, a spousal abuser, or I guess one of the myriad of sex
6 crimes, not necessarily like a predator, but --

7 MR. HERRON: Yes. Through interviewing the ward,
8 asking him direct questions about his relationships with
9 females, finding out what his values are.

10 CHAIRMAN BURTON: You would ask every male ward
11 that, or only ones that came in on a certain charge?

12 MR. HERRON: I would ask every one, every single
13 one. In order to be consistent, you have to ask every one,
14 because you may not pick up on it. You may miss it in your
15 interview.

16 CHAIRMAN BURTON: I think to just follow up, and
17 then Senator Karnette, the question about it takes four votes,
18 does it take four votes to deal with extending the term of
19 somebody? Or is it just to change Board policy?

20 MR. HERRON: I don't think I understand the
21 question?

22 CHAIRMAN BURTON: All right. I get in a fight
23 with Senator Knight. Whoever it is writes me up, "You ought to
24 give this guy another four months."

25 Does that take four votes for the Board to give
26 me four months?

27 MR. HERRON: No, sir. You would then come before
28 the Board, depending on your category, be a panel board, which

1 is two people, or even a full board, which is three people, or a
2 referee board which is one person. You would come up. I would
3 ask you, Senator --

4 CHAIRMAN BURTON: Who makes the decision?

5 MR. HERRON: I do. I do.

6 CHAIRMAN BURTON: One person.

7 MR. HERRON: I do, depending upon the category.
8 If you're a Category IV --

9 CHAIRMAN BURTON: Would I ever get a chance to
10 see the whole board en bank? How about you guys taking a shot?
11 Or, if you have a bad day one day, and I get four months.

12 MR. HERRON: It doesn't go before the full board
13 en bank, no, sir.

14 SENATOR ROMERO: Doesn't it have to be approved
15 by anybody, reviewed by anybody?

16 MR. HERRON: The investigation is done by -- the
17 offense occurs in CYA. The investigation is done by CYA. The
18 appeal is done by CYA. When that is resolved, then the kid
19 comes before the board, be it a panel board, full board, a
20 referee board.

21 CHAIRMAN BURTON: Wait a minute.

22 He comes before who? One guy, two guys, three
23 guys, come before a referee, coming before you and Mr. Hart?
24 Who is he coming before?

25 MR. HERRON: Who is coming before us?

26 CHAIRMAN BURTON: Who's making the decision
27 that's costing the state a hell of a lot of money to keep
28 somebody in an extra six months because they got in a beef with

1 some guy because they didn't get the anger management course?
2 One person? A referee that we don't even know? A hearing
3 officer? Whom?

4 MR. HERRON: I do.

5 CHAIRMAN BURTON: You do.

6 MR. HERRON: Yes, assuming -- if I'm the person
7 assigned that day, yes, sir.

8 CHAIRMAN BURTON: Not a hearing officer?

9 MR. HERRON: A hearing officer can, sir.

10 CHAIRMAN BURTON: We don't even know who they
11 are. If they can do it, why do we need a board?

12 MR. HERRON: That's for DDMS, correct.

13 CHAIRMAN BURTON: I guess.

14 Okay, so a hearing officer can determine so a
15 another six months, or whatever?

16 MR. HERRON: That's correct, sir, up to one year,
17 12 months, up to 12 months on a DDMS.

18 CHAIRMAN BURTON: And there is no appeal from
19 this person to the full board?

20 MR. HERRON: No, sir. Not to my knowledge.

21 CHAIRMAN BURTON: So, what is it that the Board
22 does that this guy can't do, this retired annuitant who is
23 double-dipping?

24 MR. HERRON: Well --

25 CHAIRMAN BURTON: The Board makes the --

26 MR. HERRON: In order to comprise a full board --
27 not to comprise a full board. The regulation reads that a board
28 member must be one of the three people to sit on a full board.

1 A full board, there has to be a board member, is what I'm
2 saying. In other words --

3 CHAIRMAN BURTON: Seven of you never sit down
4 together and decide anything?

5 MR. HERRON: Seven of us do meet on a quarterly
6 basis to decide to set policy, to talk to CYA, to express the
7 problems that we see that are going on within the CYA that we
8 can help resolve.

9 CHAIRMAN BURTON: I'm just trying to understand
10 how it works now.

11 Can a hearing officer decide -- how about me? I
12 stole a car. They brought me into CYA. I'm not looking at
13 seven people; I'm looking at you, or I'm looking at a hearing
14 officer. Who am I looking at that decides how much time?

15 The judge said up to so much. I go to not seven
16 people; I go. There's a hearing officer or you that says anger
17 management and drug abuse.

18 MR. HERRON: Right.

19 CHAIRMAN BURTON: Board member or hearing
20 officer?

21 MR. HERRON: It depends on the category. You may
22 see two people if you're a category like IV, III. Those are the
23 more serious categories.

24 If you're auto theft, let's say you're a Category
25 VI, and you come to the clinic. You see one person who may be a
26 board member, or who may be a board representative, or who may
27 be --

28 CHAIRMAN BURTON: What's the board

1 representative?

2 MR. HERRON: You have seven board members, and
3 right now --

4 CHAIRMAN BURTON: Each have a staffer?

5 MR. HERRON: No, sir. No, sir.

6 CHAIRMAN BURTON: What's a board rep?

7 MR. HERRON: A board representative is a --

8 CHAIRMAN BURTON: I'm trying to figure out what
9 you guys do.

10 MR. HERRON: I understand. I'm trying to explain
11 it to you, Senator.

12 CHAIRMAN BURTON: Okay.

13 MR. HERRON: A board rep is -- there are four, I
14 guess, with two -- four positions. Two down south; two up
15 north. Currently only two positions are filled: one up north,
16 one down south.

17 They are representatives of the board. They're
18 hearing officers.

19 CHAIRMAN BURTON: Is the hearing officer and the
20 board representative the same?

21 MR. HERRON: No, sir.

22 CHAIRMAN BURTON: Susan Wallace says yes; you say
23 no.

24 So, there are hearing officers, and then there's
25 board reps.

26 MS. WALLACE [FROM THE AUDIENCE]: There are board
27 reps who are hearing officers, and then there are retired
28 annuitants who also do hearings.

1 CHAIRMAN BURTON: The retired annuitants get
2 what? They get their pension plus the difference in their
3 pension and what the salary would be for a full-time employee?

4 MS. WALLACE [FROM THE AUDIENCE]: I'm not sure.
5 I actually do not know.

6 CHAIRMAN BURTON: Here comes the expert on
7 pensions now.

8 SECRETARY PRESLEY: Mr. Chairman, I hesitate to
9 come back.

10 But the board is seven members, as you know,
11 Chairman and six members.

12 CHAIRMAN BURTON: Who do nothing except they meet
13 quarterly and, quote, "set policy for the CIA?"

14 SECRETARY PRESLEY: No. Let me try to explain
15 this.

16 CHAIRMAN BURTON: Do they set policy for the CIA?

17 SECRETARY PRESLEY: No, no. Not for the CIA.

18 CHAIRMAN BURTON: They set policy for themselves?

19 SECRETARY PRESLEY: Yes.

20 But there's a board -- a Chairman and six
21 members. And because they can't conduct all these hearings,
22 they do 25,000 hearings a year, if you can believe that. So,
23 they can't do all that.

24 CHAIRMAN BURTON: I understand.

25 SECRETARY PRESLEY: So, they have the four
26 hearing officers who are civil service. They're civil service
27 people, not appointed by the Governor. And even they can't do
28 all the hearings. So, that's where they bring in some of the

1 retired annuitants to help out. And that's the way they do the
2 workload.

3 CHAIRMAN BURTON: And the retired annuitants are
4 hearing officers or what?

5 SECRETARY PRESLEY: Former parole officers,
6 former hearing officers, those kinds of people that have
7 retired.

8 CHAIRMAN BURTON: I understand that.

9 SECRETARY PRESLEY: And they can work, under the
10 law, they can work 50 percent.

11 CHAIRMAN BURTON: Right, doesn't affect their
12 pension. All in all, not a bad deal.

13 SECRETARY PRESLEY: Right.

14 Then the other thing I think was confusing is,
15 you can have one member which is a referee, or you can have a
16 member and a hearing officer hearing cases, and it all depends
17 on the category of the crime, the seriousness of the crime.

18 CHAIRMAN BURTON: Now, the guy we didn't want as
19 the Director of the CYA is now one of the retired annuitant
20 hearing officers, Zermeno?

21 SECRETARY PRESLEY: I don't think so. I can't
22 tell you. I don't know.

23 CHAIRMAN BURTON: Susan, is Zermeno a retired
24 annuitant hearing officer?

25 MS. WALLACE [FROM THE AUDIENCE]: I believe he is
26 on the list. I don't think he's sat for a while.

27 CHAIRMAN BURTON: That's great. A guy we didn't
28 want running the show is now running people's lives.

1 SENATOR ROMERO: Senator, can I ask a question?

2 What if there's two of you, and you each have a
3 difference of opinion as to whether somebody should get four
4 months or not get four months? Are there those discussions and
5 discrepancies, and is there a process for review?

6 I'm just concerned, and this is kind of on a few
7 boards. It's not specific to this board. There are others as
8 well that I've heard of.

9 But when you just have a shortened panel, I would
10 think that there should be some type of maybe a review process
11 whereby there would have to be a majority of the board to
12 consent to the recommendation.

13 CHAIRMAN BURTON: I think what happens with the
14 Board of Prison Terms, on the rare occasion they ever agree to
15 let somebody out, then they force it to go a full board, hoping
16 to reverse it.

17 SECRETARY PRESLEY: In this example here, if
18 there's two members, and they don't agree, one's against and
19 one's for, the chairman has the final vote. It goes to the
20 chairman for review.

21 CHAIRMAN BURTON: Who wasn't there to hear
22 anything.

23 SECRETARY PRESLEY: Probably not, but he review
24 the file and get recommendations. We'd have to have a bunch of
25 chairmen if we had him there at all these hearings.

26 CHAIRMAN BURTON: Why do sometimes you have two
27 and sometimes one?

28 SECRETARY PRESLEY: Category of the crime,

1 seriousness of the crime. The more serious the crime, the more
2 members hearing the case.

3 CHAIRMAN BURTON: It's either one or two; right?

4 SECRETARY PRESLEY: Or three.

5 CHAIRMAN BURTON: What is three? That's the
6 crime inside the prison; right?

7 SECRETARY PRESLEY: No, no. Outside. The crime
8 that they come in for, what they're committed to the Youth
9 Authority for.

10 If it's murder, you're going to have three
11 members. If it's car theft, you might have one.

12 CHAIRMAN BURTON: So, I got one guy who's a
13 retired annuitant, who couldn't get confirmed as the Director of
14 the CYA who's now deciding how much time my nephew's going to
15 get for stealing a car; right?

16 SECRETARY PRESLEY: Remotely possible. I don't
17 think the one you're talking about, I don't think he even serves
18 any more, as I understand it.

19 CHAIRMAN BURTON: Well, let's assume that when he
20 was serving he did.

21 What's weird to me is that, you know, here these
22 two guys are going through all this grief from this Committee,
23 and basically probably the guys we're mad at are three God damn
24 retired annuitants we don't even know.

25 SECRETARY PRESLEY: Let's lay it on to them.

26 CHAIRMAN BURTON: No, you know the old Sicilian
27 saying, where the fish stinks from? From the head.

28 Senator Karnette.

1 SENATOR KARNETTE: I have no questions.

2 CHAIRMAN BURTON: Be careful what questions you
3 ask. You learn more than you want to know.

4 Again, unfortunately, you and Mr. Hart had the
5 first turn in the barrel, as they say.

6 We are going to be monitoring very closely the
7 Board, and even looking at some legislation which takes new
8 meaning after these hearings.

9 Witnesses in support? Witnesses in opposition?

10 I'll move the nomination. I always do that after
11 I've been exceedingly abrasive.

12 SECRETARY WEBB: Senator Karnette.

13 SENATOR KARNETTE: Aye.

14 SECRETARY WEBB: Karnette Aye. Senator Knight.

15 SENATOR KNIGHT: Aye.

16 SECRETARY WEBB: Knight Aye. Senator Romero.

17 SENATOR ROMERO: Aye.

18 SECRETARY WEBB: Romero Aye. Senator Burton.

19 CHAIRMAN BURTON: Aye.

20 SECRETARY WEBB: Burton Aye. Four to zero.

21 CHAIRMAN BURTON: Congratulations.

22 MR. HERRON: Thank you.

23 [Thereupon this portion of the
24 Senate Rules Committee hearing
25 was terminated at approximately.

26 2:30 P.M.]

27 --ooOoo--

28

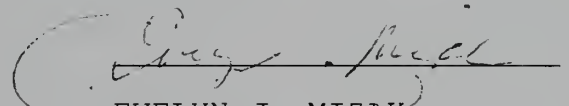
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I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 15th day of April, 2002.


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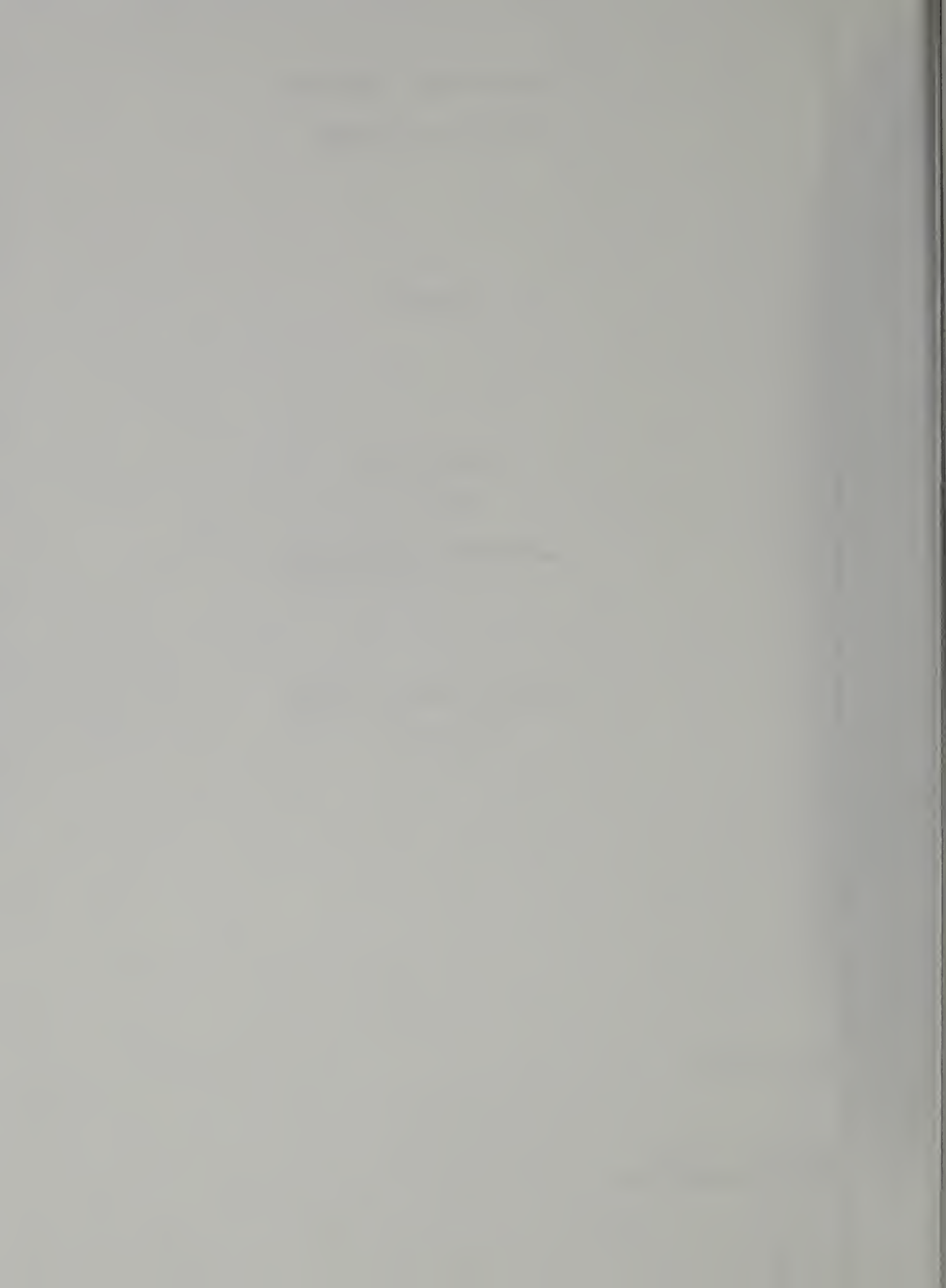
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SENATOR ROSS JOHNSON, Vice Chair

SENATOR BETTY KARNETTE

SENATOR WILLIAM KNIGHT

SENATOR GLORIA ROMERO

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NETTIE SABELHAUS, Consultant on Governor's Appointments

SUSIE SWATT, Consultant to SENATOR JOHNSON

TIM SHELLEY, Consultant to SENATOR KARNETTE

CHRIS BURNS, Consultant to SENATOR KNIGHT

ALSO PRESENT

MICHAEL S. BROCKMAN, Member
California State Lottery Commission

ASSEMBLY MEMBER FRAN PAVLEY

LESLEY DEVINE, Mayor
City of Calabasas

DAVID ROSENBERG, Member
California State Lottery Commission

THEODORE G. NEIMA, JR., Member
Public Employment Relations Board

LEE PEARSON, General Vice President
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P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

CHAIRMAN BURTON: Governor's appointees appearing today, Michael Brockman, State Lottery Commission.

ASSEMBLY MEMBER PAVLEY: Good morning, Senator Burton, Members.

It's a pleasure for me to be here today to introduce to you Michael Brockman. For those of you who have his resume, he's had a very distinguished career on television. He's been a programmer and director of daytime television for years for CBS, ABC, and NBC, for Mark Goodson Productions in a similar capacity.

I know Michael Brockman because he's from Calabasas, adjacent to Agora Hills. He's been very active in the community there, working for cable television, and he's served on the Lottery Commission this past nine months.

Well, I was about finished, but I just wanted to share with you, I think he's an excellent appointment. He has a lot of background in marketing, believes in education. He's a good member, solid member of the community.

I would appreciate your support for his nomination to the Lottery Commission.

CHAIRMAN BURTON: Go ahead, sir.

MR. BROCKMAN: Good morning, Chairman Burton, Members of the Committee.

I think Fran has basically given you a good background presentation on my experiences. They also include the children's program area at the three networks as well,

1 responsible for that. And it was that experience that had
2 intrigued me about participating in this, since I know a good
3 deal of the funds do help go directly to education.

4 And the last nine months have been a very
5 interesting experience thus far in learning about the complexity
6 of this operation and the way it is run, and it's run very well
7 by the staff and its director. And I am very pleased so far to
8 be an active member of the Commission, and working towards
9 seeing that the maximizing of the dollars that we get, getting
10 the revenue, and seeing, too, that a good deal of it goes to
11 education, which is certainly the primary mission of the act.

12 I welcome any questions that any of you wish to
13 present.

14 CHAIRMAN BURTON: Did you apply for the Lottery
15 Commission or were you chosen for it, or what?

16 MR. BROCKMAN: I was chosen. I was asked to
17 participate, you know, to perform.

18 CHAIRMAN BURTON: Do you have, like, a special
19 interest in lotteries?

20 MR. BROCKMAN: No. The interest on my part was
21 because of my professional background in games, and game show
22 product development, and scheduling, and the production of them.
23 They felt that my background, the entertainment background might
24 be a help in the development of the games and the marketing
25 efforts of the Commission.

26 And then the children's background, helping --
27 seeing that the monies go to education, was an interest of mine.

28 CHAIRMAN BURTON: Do you know whether the Lottery

1 Commission pays any attention to the issue of compulsive
2 gambling or add addictive gambling? Do you have any programs?

3 MR. BROCKMAN: There are -- there is a program
4 that has started just about a year ago to address this issue,
5 because it's certainly a concern on the part of myself and I
6 know my other Commissioners. And there is about \$100,000 that
7 we have put up towards supporting the effort to try and provide
8 information to individuals.

9 There's a hotline that's been formed for people
10 to call, and if they feel they're in trouble, can get some
11 help. And the Director of the Commission has spearheaded this
12 effort in bringing not just our own resources to play, but
13 bringing the resources of the other gaming institutions around
14 the state to participate in a kind of -- collectively, so that
15 we address this problem, which is one that I think we have a
16 responsibility to try and administer and see if we can provide
17 some help.

18 CHAIRMAN BURTON: One hundred thousand dollars
19 added a drop in the bucket, so to speak; right?

20 MR. BROCKMAN: Well, it does come out of the
21 administration pot, and it's a beginning point for us at this
22 stage. This, as I said, it's just in the formative stages the
23 last year.

24 And I must claim ignorance. I don't have the
25 exact details of exactly what has taken place thus far, but it
26 is certainly an area that I will be doing some further inquiry
27 on, on the Commission, and get a little better understanding.

28 CHAIRMAN BURTON: So, it pays to establish a

1 hotline?

2 MR. BROCKMAN: I understand it's been beneficial.
3 They have had calls, and they have gotten people directed to get
4 some help.

5 CHAIRMAN BURTON: Do they let people know that
6 there's a line for them to call?

7 MR. BROCKMAN: Yes. There is a brochure. At the
8 moment it's misplaced.

9 CHAIRMAN BURTON: That's all right.

10 MR. BROCKMAN: There is a brochure that is
11 provided to the different retailers and it's at the point of
12 purchase, the brochures, of what the signs and symptoms are for
13 this, and if you want help, this is where you can call.

14 CHAIRMAN BURTON: Do you know if they are handed
15 out with each Lottery purchase?

16 MR. BROCKMAN: I don't know that. I don't think
17 they are, but I don't know that for that for a fact.

18 CHAIRMAN BURTON: Okay.

19 Senator Johnson.

20 SENATOR JOHNSON: I was going to say I have no
21 questions, but I'll just follow up on the Chairman's.

22 My feeling is, it doesn't make a damn bit of
23 difference, and we'd be far better off educating kids with the
24 money than educating compulsive gamblers.

25 Compulsive gamblers are going to gamble, whether
26 there's a state lottery, whether there are casinos operating in
27 California, horse tracks, whatever. They'll find something to
28 gamble over, and someone to gamble with.

1 So, I think it's less than a finger in the dike.

2 CHAIRMAN BURTON: Well if I might?

3 SENATOR JOHNSON: Certainly. You've got the
4 gavel.

5 CHAIRMAN BURTON: I think the thing to addictive
6 or compulsive gambling, it isn't like: Don't use the Lottery;
7 don't use the Lottery.

8 I think it addresses the entire issue of gaming,
9 whether it's the Indian gaming, whether it's the tracks, or
10 whatever.

11 And I think it would be an act of surrender to
12 say that there's no way to try to stop people. I mean, no
13 reason for people to go to AA.

14 SENATOR JOHNSON: I'll have to concede that it is
15 an act of surrender, but I think we should.

16 No further questions.

17 CHAIRMAN BURTON: So, we shouldn't do anything
18 about alcohol or drugs.

19 Senator Romero.

20 SENATOR ROMERO: Thank you.

21 There's been some discussion about at what age we
22 should allow the gambling to begin in California. Right now
23 it's 18. There's been some discussion about moving it to 21.

24 Nationally, how many states allow 18-year-olds to
25 gamble? Are we part of the average, or what is it?

26 MR. BROCKMAN: I don't know exactly. I don't know
27 what the rest of the states' particular limitations are, but I
28 would certainly think we're not unique in that application.

1 But I would be certainly happy to have that
2 checked out for you, what the percentage is.

3 I'm not aware of us being in a rather, as I say,
4 unique or distinctive situation with regard to that. I think
5 it's fairly common.

6 SENATOR ROMERO: If you can just give me that
7 information, I find it interesting.

8 Also as well, is there a disproportionate lottery
9 purchase of, say, 18 to 21 year olds?

10 MR. BROCKMAN: No. I think there is a fairly
11 even spread with regard to the age spread of investments. I
12 don't believe there's any emphasis or greater percentage of
13 younger people playing than those that are more mature. I don't
14 believe there is that kind of specificity.

15 SENATOR ROMERO: If you can give me whatever kind
16 of data you can, I'd appreciate it.

17 I have no other questions.

18 CHAIRMAN BURTON: Senator Knight.

19 SENATOR KNIGHT: No questions.

20 CHAIRMAN BURTON: Senator Karnette.

21 SENATOR KARNETTE: No questions.

22 CHAIRMAN BURTON: Just one final question.

23 Have you been able to come up with any new games
24 for the Lottery?

25 MR. BROCKMAN: Well, the staff is the one that
26 does the development of them. Then, as they finesse them, get
27 them to the point of where they think they're ready to be
28 implemented, they then bring them forth to the Commission.

1 I have worked with them a little bit. I'm not at
2 the stage yet to be able to do that. I haven't mastered enough
3 knowledge in the detail of this, because it's a very different
4 orientation than the kind I had.

5 CHAIRMAN BURTON: No kidding.

6 MR. BROCKMAN: So, I wouldn't begin to say that
7 within these short months, that I have mastered all that I need
8 to know to be able to bring that kind of an idea to them.

9 We're going to be meeting later this week on some
10 new material for the television show, and then we work on an
11 ongoing basis on the development of new material.

12 It's something that one has to be very, very
13 careful in implementation because it's a big investment, so you
14 want to make sure you've done all the research.

15 CHAIRMAN BURTON: What was the other guy's name?
16 Was it Todman or Todson?

17 MR. BROCKMAN: Mark Goodson and Bill Todman were
18 the original.

19 CHAIRMAN BURTON: It was Todman-Goodson, or
20 Goodson-Todman?

21 MR. BROCKMAN: Goodson-Todman were the original
22 two partners.

23 CHAIRMAN BURTON: I remember it well.

24 Witnesses in support. Why don't you come up.

25 MAYOR DEVINE: Mr. Chairman, Members of the
26 Committee, it's a delight to be here.

27 My name is Lesley Devine. I'm Mayor of the City
28 of Calabasas. We are now to 20,000 population, according to the

1 Census. It's really quite an honor for our city to have one of
2 our City Commissioners come before you and become a State
3 Commissioner.

4 When we were first formed in 1991, that's not
5 very old, one of the things we quickly discovered was that we
6 had cable franchises and wireless people coming in, and who was
7 going to negotiate on behalf of our new city to make sure that
8 we got best advantages and the best technology? Michael
9 Brockman stepped up to the fore, and he's done a very good job
10 for us, also helped with our Cityhood Committee. So, he's a
11 very active, steady person in our community.

12 And I'm sure, after television, he can learn the
13 Lottery. I think he'll be an asset.

14 CHAIRMAN BURTON: Any condition in the
15 negotiations that whatever cable companies came in had to carry
16 his product?

17 MAYOR DEVINE: Well, at that point it was already
18 Goodson, so what can you say?

19 CHAIRMAN BURTON: Witnesses in opposition?
20 Hearing none, move the nomination.

21 SECRETARY WEBB: Senator Karnette.

22 SENATOR KARNETTE: Aye.

23 SECRETARY WEBB: Karnette Aye. Senator Knight.

24 SENATOR KNIGHT: Aye.

25 SECRETARY WEBB: Knight Aye. Senator Romero.

26 SENATOR ROMERO: Aye.

27 SECRETARY WEBB: Romero Aye. Senator Johnson.

28 SENATOR JOHNSON: Aye.

1 SECRETARY WEBB: Johnson Aye. Senator Burton.

2 CHAIRMAN BURTON: Aye.

3 SECRETARY WEBB: Burton Aye. Five to zero.

4 CHAIRMAN BURTON: Congratulations, sir.

5 MR. BROCKMAN: Thank you very much.

6 CHAIRMAN BURTON: David Rosenberg.

7 MR. ROSENBERG: Good morning, Senators.

8 I have no one speaking on my behalf, so I'll just
9 say a few words.

10 I was here three years ago and enjoyed the
11 confirmation of this Committee and the Senate when I was first
12 appointed to the Lottery Commission. I am pleased to have
13 received letters in support of my confirmation from
14 representatives of retailers, business leaders, school finance
15 officers, and also from problem gambling advocates.

16 I have learned in my three years on the
17 Commission that all things in moderation on the Lottery. It is
18 a business, but it is also a public agency, and we have certain
19 responsibilities.

20 Since I've served on the Lottery Commission from
21 March of '99 to the present, we have been able to provide \$3.1
22 billion to education, and also a half billion dollars back to
23 the retailers, which I think is significant.

24 Last year, the Lottery provided over a billion
25 dollars to education. This year we will do the same.

26 CHAIRMAN BURTON: Out of a gross of what?

27 MR. ROSENBERG: That's an \$8.1 billion of total
28 sales during that three-year period. That's the gross.

1 CHAIRMAN BURTON: Okay, eight point what?

2 MR. ROSENBERG: Eight point one total sales.

3 CHAIRMAN BURTON: How much to education?

4 MR. ROSENBERG: Three point one to education

5 CHAIRMAN BURTON: That of leaves five. How much
6 to the retailers?

7 MR. ROSENBERG: Point five.

8 CHAIRMAN BURTON: So, that's 4.5 million. Who
9 gets that?

10 MR. ROSENBERG: The players; 4.2 billion went to
11 the players.

12 CHAIRMAN BURTON: How much?

13 MR. ROSENBERG: Four point two.

14 CHAIRMAN BURTON: And 300,000 is what whoever
15 they are get? The people who put the Lottery on the ballot had
16 to cut themselves in for a piece of something. Where does their
17 piece come from?

18 MR. ROSENBERG: Those people, I think this was
19 before my time, but I think that was Scientific Games. They're
20 not in the loop any more. They're no longer a part of that.

21 CHAIRMAN BURTON: They made their score how?

22 MR. ROSENBERG: They were a contractor with the
23 Lottery before my time. They're not a contractor with the
24 Lottery at this time.

25 CHAIRMAN BURTON: So, they made theirs and --

26 MR. ROSENBERG: The only way that those folks --

27 CHAIRMAN BURTON: Who gets the other 300,000?

28 MR. ROSENBERG: Let's see, 8.1 billion --

1 CHAIRMAN BURTON: Eight point one, three point
2 one, leaving five; four point five.

3 MR. ROSENBERG: The money from the Lottery's only
4 divided in the following ways. One to the -- you take the
5 gross, and from that you take --

6 CHAIRMAN BURTON: Three point one to the schools.
7 That left five million.

8 MR. ROSENBERG: You take money to retailers, and
9 the players. That leaves you money for operations of the
10 Lottery.

11 CHAIRMAN BURTON: So, the three hundred is for
12 operation of the Commission?

13 MR. ROSENBERG: Three hundred million, no, that's
14 for operation of the Lottery over that three-year period.
15 That's correct. It's just under three hundred million for that
16 three-year period.

17 CHAIRMAN BURTON: Operating the Lottery, that
18 would include the Commission or no?

19 MR. ROSENBERG: Well, the Commission --

20 CHAIRMAN BURTON: It's got to cost something to
21 operate the Commission.

22 MR. ROSENBERG: Yeah, exactly.

23 The Lottery Act says no more than 16 percent goes
24 for administration. The Lottery has been 13.5 percent. Of that
25 13.5 percent, Senator, most of it goes to the retailers.

26 I think -- I'm trying to respond.

27 CHAIRMAN BURTON: No, I got it.

28 I never liked it when it went on, and still don't

1 like it. As Ken Maddy used to say, probably the worst odds of
2 any gaming thing in the world, which isn't your fault, of
3 course; is it?

4 MR. ROSENBERG: I hope not, Senator. I just try
5 to follow the law.

6 CHAIRMAN BURTON: There's been an issue raised
7 about potential conflict between you as a Lottery Commissioner
8 and as the Governor's Indian gaming advisor.

9 Will you still be or are you his advisor on
10 Indian gaming?

11 MR. ROSENBERG: Yes.

12 CHAIRMAN BURTON: Do you negotiate contracts?

13 MR. ROSENBERG: At the Lottery?

14 CHAIRMAN BURTON: No, no, with Indians.

15 MR. ROSENBERG: No.

16 CHAIRMAN BURTON: What do you do?

17 MR. ROSENBERG: I advise him on tribal gaming
18 issues.

19 And of course, there's no conflict. I've
20 certainly seen no conflict, Senator. The Lottery doesn't
21 operate on Indian lands, and I just have seen no conflict.

22 CHAIRMAN BURTON: Well, some of the tribes are
23 concerned of a potential conflict. I don't know what that would
24 be either.

25 When you advise the Governor, what kind of
26 issues?

27 MR. ROSENBERG: Well, for example, there are
28 issues that come up. There are legal issues that come up

1 relating to Indian lands. For example, they may want to add
2 land to trust.

3 CHAIRMAN BURTON: Doesn't what's his name do
4 that?

5 MR. ROSENBERG: The Attorney General?

6 CHAIRMAN BURTON: Barry Good.

7 MR. ROSENBERG: Barry Good is the Governor's
8 legal advisor.

9 CHAIRMAN BURTON: Wouldn't he give him that
10 advice?

11 MR. ROSENBERG: I advise on policy issues.

12 CHAIRMAN BURTON: So, you tell him whether he
13 should or shouldn't, and Barry just tells him whether it's legal
14 or not legal?

15 MR. ROSENBERG: In the simplest form, yes.

16 CHAIRMAN BURTON: So, the Governor's legal
17 advisor gives him no policy advice? It's just, the law says you
18 can't go over 55?

19 MR. ROSENBERG: Senator, I can't say that the
20 legal advisor doesn't give policy advice, but we've divided it
21 in a sense that Shelly Ann Chang in the Governor's legal office
22 is our expert on Indian --

23 CHAIRMAN BURTON: And so, she tells you what the
24 law is, and you tell him? I'm just trying to understand. You
25 tell him, "Don't let them, you know, get property in trust," or
26 what?

27 MR. ROSENBERG: Well, there are issues relating
28 to what the community feels, you know, the surrounding

1 community. I try to get input on that. There are environmental
2 issues. There are issues relating what they want to use the
3 land for. I'm just giving you an example kind of thing that I
4 might be called upon.

5 I meet with Indian tribal leaders almost every
6 two days. I'm their point of contact. So, there's lots of
7 issues they want to discuss relating to --

8 CHAIRMAN BURTON: So, if an Indian tribe --
9 gaming or non-gaming?

10 MR. ROSENBERG: Both. All 108 federally
11 recognized Indian tribes.

12 CHAIRMAN BURTON: And you meet with them on
13 issues. You would meet with the non-gaming tribe on an issue
14 not related to gaming?

15 MR. ROSENBERG: Absolutely. I've talked to
16 tribes about health issues. I've talked to tribal leaders about
17 power plant issues. There's some tribal land --

18 CHAIRMAN BURTON: How about, remember the garbage
19 dump issue?

20 MR. ROSENBERG: In San Diego, yeah.

21 CHAIRMAN BURTON: Did that end up getting vetoed?

22 MR. ROSENBERG: That just preceded my involvement
23 in the Indian --

24 CHAIRMAN BURTON: So, you didn't recommend up,
25 down?

26 MR. ROSENBERG: I didn't recommend.

27 CHAIRMAN BURTON: Who was doing what you're doing
28 before you were doing it then? That wasn't that long ago. That

1 was just the end of last session.

2 MR. ROSENBERG: I think it was a mixture of
3 people, primarily Tal Finney was involved. I kind of took over
4 that operation.

5 CHAIRMAN BURTON: Some say he might be a policy
6 wonk.

7 Senator Johnson.

8 MR. ROSENBERG: Thank you, Senator.

9 SENATOR JOHNSON: How do you find time to do all
10 this stuff? You're an elected public official?

11 MR. ROSENBERG: I am, sir. You've got to carry
12 your calendar with you at all times, and you've got to be highly
13 organized.

14 You know, I haven't gotten that sophisticated. I
15 just have -- if I ever lose this, I'm in deep trouble, Senator.

16 SENATOR JOHNSON: How much time would you say you
17 devote to your position with the Lottery versus your other
18 responsibilities, and you maintain a private practice of law as
19 well?

20 MR. ROSENBERG: No, no, sir. I gave up my
21 private practice of law when I assumed a position with the
22 Governor's office.

23 But when I -- when I was first appointed to the
24 Lottery Commission in '99, I put in more time that first year
25 than I do now because at that point, we didn't have a director.
26 We do now with Joe Wilson. And so, I found myself much more
27 involved and engaged in the day-to-day operations simply because
28 we didn't have a director.

1 Since we got a director, I've been less engaged
2 in the day-to-day operations, but I'm always available to the
3 Lottery to deal with policy issues and answer those questions.

4 It's hard to give you a specific time. Some
5 weeks are more than others. Obviously, when we have a Lottery
6 Commission meeting coming up, that takes a lot of time.

7 SENATOR JOHNSON: Thank you.

8 CHAIRMAN BURTON: Initially you were the
9 intergovernmental guy; right?

10 MR. ROSENBERG: Still am. My official title is
11 Community and Intergovernmental Relations.

12 CHAIRMAN BURTON: And then your unofficial title
13 is Lottery Commissioner, and then your un-unofficial title is
14 policy consultant on tribal matters. Well, we could consider
15 that intergovernmental; couldn't we?

16 MR. ROSENBERG: Yes, we can.

17 CHAIRMAN BURTON: As long as we're into this, and
18 then I go to Senator Romero, what does the Lottery Commission
19 do?

20 MR. ROSENBERG: Makes the decisions on the
21 operation of the Lottery because --

22 CHAIRMAN BURTON: Do you have, like, have
23 three-to-two votes, or is it always --

24 MR. ROSENBERG: We have had a rare -- since I've
25 been on the Commission, rarely have we had split votes.

26 CHAIRMAN BURTON: So, they could almost do it
27 with an executive director?

28 MR. ROSENBERG: Oh, no.

[Laughter.]

CHAIRMAN BURTON: I'm just trying to ease your workload.

MR. ROSENBERG: No, the unique thing --

CHAIRMAN BURTON: Senator Romero.

SENATOR ROMERO: Again, a similar question. What thoughts do you have on the question about age?

MR. ROSENBERG: Well, my understanding is that there are 38 states that have lotteries in the United States. I believe all of them, if not all of them, virtually all of them have gaming at the age of majority, which is 18.

I have no particular feelings one way or the other about whether it should be 18, or 19, or 21.

I will tell you that we have very few players in the 18 through 21 age group. Statistically, it's our lowest age category of players. And I think the next lowest is like 21 to 24.

Most of the players we have tend to be in their 30s and 40s.

SENATOR ROMERO: Thank you.

SENATOR JOHNSON: It's just been brought to my attention.

You have among the other many hats you wear, are you the ethics officer in the office of the Governor?

MR. ROSENBERG: I see my time is up.

[Laughter.]

MR. ROSENBERG: No, this is a rather new responsibility I've assumed, Senator. I've assumed this

1 responsibility just about three, or four, or five months ago.

2 We're trying to be a lot more proactive in
3 reviewing Form 700s, and that's what I do.

4 SENATOR JOHNSON: Mr. Chairman, I can't pass up
5 the opportunity.

6 CHAIRMAN BURTON: I would be surprised if you
7 did.

8 SENATOR JOHNSON: We see, I see, a fairly
9 consistent pattern of nominees of the Governor's office who come
10 before us who, on the record, indicate that they haven't been
11 advised. Often they indicate they haven't been advised of the
12 letter of the law with respect to reporting requirements, and
13 consistently indicate that they haven't been advised of the
14 spirit of the law.

15 Again, I recognize you wear a lot of hats, but it
16 seems to me that there is a crying need in the Governor's office
17 to sit down with people, not only and say, "Here's the forms you
18 have to fill out, and here are the deadlines by which you have
19 fill them out, and make sure you have this filed on time," but
20 what the underlying purpose of the law is in order to avoid the
21 possibility or appearance of a conflict of interest.

22 I'd like to have your thoughts on that, as long
23 as --

24 MR. ROSENBERG: I agree with you, Senator..

25 SENATOR JOHNSON: -- as long as we're gathered
26 here.

27 MR. ROSENBERG: Senator, I agree with you.

28 I think this Governor and all future governors

1 have to be a lot more proactive in dealing with potential
2 appointees on boards and commissions and in offices. That
3 certainly is the intent.

4 So, the short answer is, I agree with you.

5 CHAIRMAN BURTON: I'd just like to congratulate
6 you, so that you know, that the many questions you have asked on
7 this issue, that the administration has responded with an
8 appointment.

9 And I think that probably Friday afternoons
10 between three and five, you're able to pay attention to this.

11 How much money do they pay you? Do they pay you
12 much money?

13 MR. ROSENBERG: I took a pay cut to take these
14 jobs.

15 CHAIRMAN BURTON: Yeah, but you were making big
16 money before you took this one, as I recall.

17 MR. ROSENBERG: In private practice, sure, yeah.

18 CHAIRMAN BURTON: You're sort of like, you're
19 really the utility infielder down there; aren't you?

20 MR. ROSENBERG: That's what the Governor's called
21 me before.

22 CHAIRMAN BURTON: Has he? See, that's why we get
23 along so good.

24 SENATOR JOHNSON: I just would offer the
25 observation that when the Fair Political Practices Commission is
26 fining the Department of Water Resources rather than the
27 individuals involved in failing to comply with the requirements
28 of the reporting law, that we've got a long, long way to go in

1 terms of communicating to appointees, or communicating to people
2 who are hired to negotiate contracts for the State of
3 California. And again, not just with compliance with the letter
4 of the law, but the spirit of the law as well.

5 MR. ROSENBERG: Thank you, Senator.

6 CHAIRMAN BURTON: Senator Knight.

7 SENATOR KNIGHT: I just have one question.

8 Isn't there a Gamblers Anonymous?

9 MR. ROSENBERG: Yes, there is.

10 SENATOR KNIGHT: Do you have any contact with
11 them, or do they ever contact the board or anything to help with
12 their situation?

13 MR. ROSENBERG: We have -- we worked with a
14 gamblers association. Tom Tucker is President of that
15 association. And we've entered into an agreement.

16 By the way, on that hotline, this was an issue
17 that you raised when I was here three years ago. And that's
18 something I've really tried to concentrate on.

19 We print the number of our hotline on the back of
20 our Scratchers tickets. And I've called that hotline, and you
21 get a human being. You don't get a recording.

22 CHAIRMAN BURTON: I'd just like to say, whoever
23 okayed this brochure had never been involved in a political
24 campaign. It's kind of cute, then you try to read this part,
25 which is very small print and which is white on purple, and then
26 this, and then down there.

27 They ought to do it like this. At least you can
28 read it.

1 MR. ROSENBERG: I've been there.

2 CHAIRMAN BURTON: Yeah, you've been there. And
3 you really ought to have them do the brochure kind of simple,
4 kind of easy to see, because it's very pretty and would probably
5 win an award somewhere, but somebody who takes it out and looks
6 at it gets blurry, and they throw it away.

7 MR. ROSENBERG: We'll send you the new brochure.

8 CHAIRMAN BURTON: I mean, you wouldn't send this
9 out if you were running for the City Council in Davis, or if you
10 did, you wouldn't get elected to the City Council in Davis.

11 Senator Karnette.

12 SENATOR KARNETTE: I'd like to make a comment,
13 something interesting.

14 I was looking at publications. One of your
15 publications is a full-length science fiction novel in 1986. My
16 question is, your experience in science fiction, is that applied
17 at all to the Lottery?

18 MR. ROSENBERG: My experience in science fiction
19 applies to almost every day of my life.

20 SENATOR KARNETTE: Good. I knew that I liked
21 you.

22 MR. ROSENBERG: Thank you, Senator.

23 SENATOR KARNETTE: I also knew you before, and it
24 amazes me, all the things that you can do. I need to take
25 lessons, I think.

26 MR. ROSENBERG: Very kind of you.

27 SENATOR KARNETTE: Maybe adapt some of those
28 science fiction techniques. I'd like to learn them.

1 MR. ROSENBERG: I think I wrote the novel only to
2 see if I could do it.

3 SENATOR KARNETTE: You sound like one of the
4 characters.

5 [Laughter.]

6 MR. ROSENBERG: The characters were mostly
7 robots, actually.

8 [Laughter.]

9 CHAIRMAN BURTON: Do you have any family with
10 you?

11 MR. ROSENBERG: No, no members of the family are
12 with me today.

13 CHAIRMAN BURTON: Any witnesses in support? Any
14 witnesses in opposition?

15 Move the nomination.

16 Do something about this.

17 MR. ROSENBERG: Guaranteed, you'll be getting the
18 new brochure.

19 CHAIRMAN BURTON: But I mean, when you looked at
20 it, did you --

21 MR. ROSENBERG: I did not review and approve that
22 brochure.

23 CHAIRMAN BURTON: See? They give you too much to
24 do. This is your primary duty.

25 MR. ROSENBERG: We approve -- maybe you're right.
26 We approve business plans, and budgets, and new games, and
27 contracts, but we did not review the brochure, but we will.

28 CHAIRMAN BURTON: Did they contract out for

1 this?

2 MR. ROSENBERG: I honestly don't know.

3 Was that contracted out, or was that in-house?

4 [FROM THE AUDIENCE]: It was in-house.

5 MR. ROSENBERG: Sorry to say it was in-house.

6 CHAIRMAN BURTON: Well, I know eight political
7 consultants that would do it for nothing, just to say they did
8 it.

9 Call the roll.

10 SECRETARY WEBB: Senator Karnette.

11 SENATOR KARNETTE: Aye.

12 SECRETARY WEBB: Karnette Aye. Senator Knight.

13 SENATOR KNIGHT: Aye.

14 SECRETARY WEBB: Knight Aye. Senator Romero.

15 SENATOR ROMERO: Aye.

16 SECRETARY WEBB: Romero Aye. Senator Johnson.

17 SENATOR JOHNSON: Aye.

18 SECRETARY WEBB: Johnson Aye. Senator Burton.

19 CHAIRMAN BURTON: Aye.

20 SECRETARY WEBB: Burton Aye. Five to zero.

21 CHAIRMAN BURTON: Congratulations.

22 MR. ROSENBERG: Thank you, Senators.

23 CHAIRMAN BURTON: Ted Neima, Member of PERB.

24 MR. NEIMA: Thank you, Senator Burton, Chairman,
25 and Members of the Committee.

26 I have with me as a witnesses to speak in my
27 behalf after my presentation, if that's acceptable, General Vice
28 President Lee Pearson, of the Machinists and Aerospace Workers

1 Union.

2 CHAIRMAN BURTON: Fine.

3 MR. NEIMA: I have a brief opening statement.

4 CHAIRMAN BURTON: I think just for the record
5 you'll want to identify yourself.

6 MR. NEIMA: My name is Theodore G. Neima. I'm a
7 member of the Public Employment Relations Board, appointed in
8 August of last year.

9 Thank you for the opportunity to appear before
10 the Committee regarding my appointment by Governor Gray Davis.

11 Prior to my appointment, I served for 27 years as
12 an officer and representative of the International Association
13 of Machinists and Aerospace Workers. And for almost a decade
14 before my appointment, my responsibility was the handling of our
15 National Labor Relations Board cases, Federal Labor Relations
16 Authority cases, and State Labor Relations Authority cases in
17 the Western United States.

18 Since my appointment last year, I've been
19 privileged to work with a talented staff at PERB, many of who've
20 been with the Board since it was created 25 years ago.

21 Last October, I was elected by my colleagues to
22 serve as their acting Administrative Chair.

23 Since its establishment 26 years ago, PERB has
24 expanded from public school employees, kindergarten through
25 twelve, to now include higher education employees, state
26 employees, and with the passage of Senate Bill 739, now
27 employers and employees in cities, counties, and special
28 districts.

1 PERB's immediate challenge is to fulfill the
2 responsibility under that act, and to handle the increased
3 workload of approximately 5,000 new employers and estimates of
4 between 650,000 and 850,000 employees coming aboard. We're
5 making adjustments to do that, doing several things, both in
6 staffing, facility, and technological improvement.

7 Our first priority is to improve and to maintain
8 PERB's core of highly skilled administrative law judges. To do
9 that, we did receive the approval of the administration,
10 Personnel Administration, to develop a new testing procedure.
11 We developed an elite list of administrative law judges. We
12 have all ready promoted one person in-house who scored top in
13 that examination to administrative law judge. We are holding
14 interviews in Los Angeles later this month to fill our second
15 vacancy and to maintain what PERB has always prided itself on,
16 which is a very elite core of administrative law judges to
17 handle the evaluation of the statutes.

18 A second area to gain efficiency, in the Bay
19 Area, we have for sometime, PERB's offices have been in two
20 separate areas of the Elihu Harris Building in Oakland on space
21 loaned by the Legislature. We are now finalizing a new lease
22 for an integrated facility in Oakland where all of our staff
23 will be able to be far more efficient in that operation.

24 Third, we have recently received at unanimous
25 recommendation of the Board the promotion of our Deputy General
26 Counsel to become General Counsel, and has been appointed
27 General Counsel of PERB, Robert Thompson. With that, we believe
28 that we'll have more direction over the efforts of the General

1 Counsel's office and PERB.

2 And finally, I would just like to mention
3 technology. Technology and case processing is a very important
4 element with us. We have what we call PERB Central, which is
5 our document assembly system. That is going through another
6 revision right now.

7 We're also doing our utmost now to bring all
8 cases historically on line for public access so that people, our
9 constituents, both employers, employee organizations, employees,
10 will have a better understanding of what our PERB precedent is
11 so that disputes can be resolved earlier.

12 I believe in this area, the Board needs to be
13 more visible, needs to do more outreach. I believe we're
14 developing a consensus on that, because I believe that if we can
15 get better filed issues coming before the Board, then the
16 product all the way up through the line, through our regional
17 attorneys, through our administrative law judges, will bring a
18 better product, a clearer product, to the Board if decisions
19 need to be rendered.

20 I appreciate the opportunity, Senator, and I'm
21 glad to answer any questions that you may have or the Members of
22 the Committee.

23 CHAIRMAN BURTON: Why don't we hear from the
24 witness.

25 MR. PEARSON: Thank you, Senator Burton,
26 Senators.

27 My name is Lee Pearson. I'm the General Vice
28 President for the International Association of Machinists and

1 Aerospace Workers. Our office is in Folsom, California.

2 Ted's career in labor relations has developed
3 primarily through his position as an International
4 representative for our union. Between 1979 and 2001, Ted's
5 worked in various capacities as an International representative
6 for the Machinists Union.

7 In 1992, I assigned Mr. Neima overall
8 responsibilities for the handling of IM cases, proceedings,
9 before the National Labor Relations Board, the Federal Labor
10 Relations Authority, and various state employment relations
11 boards such as PERB. These are all taking place throughout the
12 13 western states.

13 In this arena, he developed improved, more
14 efficient guidelines for case handling, thereby facilitating
15 more frequent settlement of employer-employee issues.

16 I've known Ted for over 25 years, and I can
17 wholeheartedly recommend his confirmation to the PERB Board.

18 Thank you.

19 CHAIRMAN BURTON: Thank you.

20 Just one question, which I've always wanted to
21 ask and never did. Why are machinists on the always a lodge and
22 not a local, going back a long time?

23 MR. PEARSON: Going back since our founding over
24 114 years ago.

25 CHAIRMAN BURTON: Was it like a fraternal
26 organization first?

27 MR. PEARSON: It was originally developed after
28 the Masonic Lodge.

1 CHAIRMAN BURTON: What does it take to do
2 something on the Board? Does it take three or two?

3 MR. NEIMA: It takes -- there are three members
4 paneled on two separate paneling schedules. One is our
5 injunctive relief rotation. The second one is our case
6 rotation. There are always three members on those panels. And
7 you need two of three votes. The authorship rotates.

8 CHAIRMAN BURTON: The reason I'm asking this,
9 along with other things, there's three members and two
10 vacancies.

11 MR. NEIMA: That is correct, sir. All of our
12 actions require three members.

13 CHAIRMAN BURTON: But they don't require three
14 votes. Do you require three votes or three members?

15 MR. NEIMA: We require three votes of at least
16 three members.

17 CHAIRMAN BURTON: So, if there's any
18 disagreement, nothing happens?

19 MR. NEIMA: Well, the votes would be two-zip or
20 one way or the other, or three-zero -- excuse me, two-to-one,
21 one-to-two, or a combination.

22 CHAIRMAN BURTON: If it's two-to-one, in other
23 words, that suffices?

24 MR. NEIMA: That would suffice.

25 Of course, in creating the law, when our
26 constituents, if I may answer a little more fully, obviously
27 what constituents, whether they're employees or employer
28 organizations, are always looking for is clarity in the law.

1 And to the extent possible, boards such as ours that are quasi-
2 judicial, try to give clarity in the law and, where possible,
3 three decisions that are three-person unanimous decisions always
4 help give better guidance.

5 CHAIRMAN BURTON: You could have a two-to-one
6 vote, and you get two more members, and it becomes a
7 three-to-two vote in theory.

8 There's an issue, whatever it is. And so, either
9 the worker, or management, or somebody sustained two-to-one.
10 Then there are two new appointees. In theory, the two new ones
11 could vote with the minority and overturn, in other words,
12 reconsider something and overturn the thing.

13 I guess the point I'm making, which isn't your
14 fault, but I wish, you might let him know that he ought to fill
15 these things. I mean, a one hundred and whatever a year, there
16 must be a lot of people waiting to get one. I could think of a
17 couple myself.

18 In fact, I'm thinking we really ought to put a
19 statute in that if there's vacancies for more than whatever, a
20 year, that the Legislature fills them.

21 Senator Johnson.

22 SENATOR JOHNSON: I was going to make exactly the
23 same point. In the entire time that this Governor's been in
24 office, there have been consistently at least two vacancies. I
25 mean, it's not same the vacancies, but it's just a constant
26 churning. So, it's never been more than three in the time that
27 this Governor has been in office.

28 I believe it's \$114,000 a year.

1 I was going to suggest, Mr. Chairman, that we
2 ought to amend the law and do away with it, but I actually like
3 your suggestion a lot better, Mr. Chairman. Makes a lot of
4 sense to me.

5 MR. NEIMA: Just so I'm being clear and making
6 sure that I did not misspeak, if we had four members or five
7 members, they would still be paneled to a three-person panel.

8 CHAIRMAN BURTON: But then doesn't somebody get
9 to appeal to the full five?

10 MR. NEIMA: It can -- you can. Not only may they
11 appeal, I believe, to the full Board, which I haven't heard of
12 in the last several years.

13 CHAIRMAN BURTON: How the hell can they? You've
14 only got three people.

15 SENATOR JOHNSON: They'd be appealing the
16 decision to the people who made the decision from which they're
17 appealing.

18 CHAIRMAN BURTON: This is not your beef.
19 Senator Romero.

20 SENATOR ROMERO: Let me continue on the beef
21 though.

22 It seems that we hear all these different
23 commissions. They have different voting requirements. Some of
24 them don't even take a majority vote in order to get actions
25 passed.

26 I'm wondering if at some point we can just for
27 ourselves get a breakdown of the different commissions. To me,
28 I would hope that we'd go into a majority vote. To me that

1 matters. It should be fifty percent plus one.

2 And the last meeting we had, it takes one person,
3 and two people. It sounds have disorganized.

4 I'm hoping at some point, perhaps, we could have
5 that information brought to us and really do a study of our
6 commissions, and I hope, get to that fifty percent plus one.

7 That's all I have to say.

8 CHAIRMAN BURTON: Senator Knight.

9 SENATOR KNIGHT: No questions.

10 CHAIRMAN BURTON: Senator Karnette.

11 SENATOR KARNETTE: Since your appointment to
12 PERB, what are the significant policy issues that seem to come
13 up all the time? Are there any ones that just are --

14 MR. NEIMA: I would say, without talking about
15 specific cases, but the last point I mentioned, I think, is very
16 important when I talked about outreach. What I have seen, I
17 believe culturally, in my opinion, the Board has resisted -- not
18 the Board itself, but the culture of the Board has not done as
19 much outreach in the past, so in what employers or employee
20 organizations are filing cases, there's enough assistance to
21 them in properly framing their case.

22 The results of that, Senator, in one person's
23 opinion, one Board member's opinion is, that when the decision
24 -- when the case is investigated by, for example, a regional
25 attorney, or it comes before an administrative law judge, the
26 summary of that case, as it comes to the Board member, the file
27 I get, you have these inconsistencies between the write up, and
28 what was filed actually because the filing was imperfect in many

1 cases. It wasn't -- they didn't have a full understanding of
2 the law, the procedures before the Board in filing their case.

3 And so then, a professional comes out with a
4 response. Well, when it comes a Board member, and there's three
5 separate Board members independently looking at this file, we're
6 not allowed, of course, because we're subject to the canons of
7 judicial conduct to some extent, we don't -- we can't call the
8 administrative law judge and say, or the person, the regional
9 attorney who investigated and say, well, the facts of the case
10 as set forth by the Petitioner was say A, but the way you've
11 written it up, there's this inconsistency; it's slightly
12 different, and why have you written it differently? Why is it
13 reconciled?

14 And to the best of my ability so far, I believe
15 that a little better outreach by the Board, a little more
16 assistance to the parties, more brochures, for example.

17 One of the things we just developed was a new
18 brochure, which is the first one I've seen at the Board. There
19 may have been some 10 or 15 or 20 years ago, but recently, that
20 actually summarizes what we do, and actually summarizes the
21 statutes passed by this Legislature, and what they're intended
22 to do.

23 I believe with a little bit of outreach, better
24 visibility, we can get better case handling before the Board and
25 earlier settlement of disputes.

26 It may sound a little abstract, but from my
27 tangibly handling of cases so far, I believe we can render
28 clearer, better, quicker decisions if we can give them more help

1 from the get-go on filing.

2 SENATOR KARNETTE: Do the local governments,
3 would they be the ones that would need the most help because
4 they're the newest ones in the mix?

5 MR. NEIMA: Yes, I believe both local government
6 employers, meaning cities, counties, special districts, and the
7 local government employee organizations.

8 We have been making an outreach to both of those
9 constituencies, saying, "Look, if you would like our assistance,
10 if you would like some training, our staff, our General Counsel,
11 and others have been making presentations," and I believe that
12 has to be continued and strengthened.

13 SENATOR KARNETTE: That would avoid a lot of
14 problems, possibly --

15 MR. NEIMA: Yes, it would.

16 SENATOR KARNETTE: -- in the collective
17 bargaining aspect?

18 MR. NEIMA: Right, and it would certainly help us
19 sleep better at night, because every one of these decisions --
20 some of them that come before us, as you can imagine, are heart
21 rendering decisions. And when you sleep at night after
22 rendering one of these, or authoring one, you want to know that
23 you did, in your conscience, the right thing for the law of the
24 state and for these lives of the people that you're dealing
25 with.

26 So, there's a personal motive in this, too. We
27 would like to be able to have our conscience clear and sleep
28 well, knowing we decided the right way.

1 SENATOR KARNETTE: Thank you.

2 CHAIRMAN BURTON: Witnesses in support.

3 Do you have your family here?

4 MR. NEIMA: Yes, Senator.

5 CHAIRMAN BURTON: Do you want to introduce them?

6 MR. NEIMA: May I please.

7 CHAIRMAN BURTON: Sure.

8 MR. NEIMA: I would like to introduce my wife,
9 Judy Neima, and my oldest daughter, Amy Brocksom. Her husband
10 is working today.

11 MR. MCKINNON: Mr. Chairman and Senators, very
12 short and brief. I'm Matt McKinnon, California Conference of
13 Machinists.

14 The California Conference of Machinists supports
15 the confirmation of the appointment.

16 And I would like to add, Art Polaski is stuck in
17 traffic and sent his regards here.

18 Thank you.

19 CHAIRMAN BURTON: Witnesses in opposition?
20 Hearing none, move the nomination. Call the roll.

21 SECRETARY WEBB: Senator Karnette.

22 SENATOR KARNETTE: Aye.

23 SECRETARY WEBB: Karnette Aye. Senator Knight.

24 SENATOR KNIGHT: Aye.

25 SECRETARY WEBB: Knight Aye. Senator Romero.

26 SENATOR ROMERO: Aye.

27 SECRETARY WEBB: Romero Aye. Senator Johnson.

28 SENATOR JOHNSON: Aye.

1 SECRETARY WEBB: Johnson Aye. Senator Burton.

2 CHAIRMAN BURTON: Aye.

3 SECRETARY WEBB: Burton Aye. Five to zero.

4 CHAIRMAN BURTON: Congratulations.

5 MR. NEIMA: Thank you, Chairman and Senators.

6 [Thereupon this portion of the

7 Senate Rules Committee hearing

8 was terminated at approximately.

9 11:00 A.M.]

10 --ooOoo--


CERTIFICATE OF SHORTHAND REPORTER

I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing transcript of the Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn J. Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 16th day of April, 2002.


EVELYN J. MIZAK
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APPEARANCESMEMBERS PRESENT

SENATOR JOHN BURTON, Chair

SENATOR ROSS JOHNSON, Vice Chair

SENATOR BETTY KARNETTE

SENATOR WILLIAM KNIGHT

SENATOR GLORIA ROMERO

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NETTIE SABELHAUS, Consultant on Governor's Appointments

SUSIE SWATT, Consultant to SENATOR JOHNSON

TIM SHELLEY, Consultant to SENATOR KARNETTE

CHRIS BURNS, Consultant to SENATOR KNIGHT

RYAN SHERMAN, Consultant to SENATOR ROMERO

ALSO PRESENT

WILLIAM E. DOMBROWSKI, Member
Industrial Welfare Commission

TOM RANKIN
California Labor Federation

CARLOS RAMOS, Director
Stephen P. Teale Data Center

SENATOR MIKE MACHADO

FRANK RAMIREZ
American GI Forum

NASSER AZIMI, Chief Information Officer
San Francisco Unified School District

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P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

CHAIRMAN BURTON: The first person to appear is Mr. Dombrowski.

MR. DOMBROWSKI: Well, as you all know, this is a re-appointment as a member of the Industrial Welfare Commission, which I take on with great trepidation, given the history of the IWC's record over the last few years. It's been quite a challenge.

I was appointed originally in September of 1999. Immediately, we had to address not just a review of the minimum wage, but also all the issues entailed with the passage of AB 60. So, it was coming up with the policies for the elections, looking at all the wage orders, reopening them, amending them, and reaching a consensus.

Subsequent to that adoption, the Commission has actually been relatively slowing down. I know as you saw, probably, from my earlier statement, its primary purpose going forward, I think, is to review the minimum wage every two years, and to address whatever labor issues get brought before it. But I would hope that it would be a lot less activity going forward.

I would like to perhaps address maybe the issue that's been raised about the manager exempt. There was an issue brought up about the manager exempt issue.

CHAIRMAN BURTON: There's a couple, but address any ones that you think we'd be interested in, but that's one.

MR. DOMBROWSKI: Just the procedure-wise, what we

1 looked at there was the issue of do you maintain your exemption
2 by working one day per week, which is the federal law, and which
3 had been California's historic standard, or the new
4 interpretation that came out from the Chief Counsel of the Labor
5 Department, if you work one day a month you have to get paid for
6 the entire month to maintain your exemption. And that opinion
7 was issued by the Labor Department, Chief Counsel citing the
8 silence of the Legislature on AB 60 when it went through, and
9 citing the silence of the IWC on that same issue.

10 The majority of the Commissioners remained silent
11 on it because we didn't think it was an issue, and so we looked
12 for a way to do that, to make a comment to respond to the Labor
13 Commissioner. And we used an open wage order to do that.
14 Subsequently challenged by the Labor Federation, labor was
15 successful in that challenge. We lost at the Superior Court
16 level.

17 But in the meantime, the AG's office informed us
18 that we could take a vote and send a letter to the Labor
19 Commissioner with our sentiments, which we did. And the Labor
20 Commissioner subsequently issued a new opinion letter, which
21 reaffirms what California had followed for decades, which is
22 that you maintain your exemption by working -- or if you work
23 one day a week, you get paid for that entire week.

24 So, that was the concern raised by the Labor
25 Federation.

26 CHAIRMAN BURTON: The Court ruled that what you
27 did wasn't --

28 MR. DOMBROWSKI: Wasn't right. But that was

1 simply on the procedure.

2 What was important to the employer community was
3 that the policy of the Enforcement Division was consistent with
4 what it's historically been, and that is what the Labor
5 Commissioner has now done again.

6 CHAIRMAN BURTON: You received several
7 communications about how you were doing that, and you went ahead
8 and did it any way. And the concern was, it was done with a
9 private counsel's opinion in the face of, at that point, your
10 own attorney, the Leg. Counsel opinion, and the AG. And we just
11 thought that was rather untoward.

12 I think I may have expressed that to you.

13 MR. DOMBROWSKI: Actually, I agreed with the AG's
14 opinion, because the opinion the AG issued didn't address what
15 we were doing. It wasn't -- the question wasn't exactly phrased
16 right. So, I actually agreed with the AG's opinion.

17 But counsel for the IWC at a hearing did say that
18 in her opinion, what we were doing was illegal, separate and
19 apart from --

20 CHAIRMAN BURTON: So, you ignored your own lawyer
21 and went with some private lawyer.

22 MR. DOMBROWSKI: No, we just felt, Senator, that
23 we had to get something on the record because there was so much
24 litigation coming down the road.

25 And the ironic thing was, at the end of that
26 process, that same counsel is the one who informed us, by the
27 way, if the majority of Commissioners want to send a letter to
28 the Labor Commissioner expressing your viewpoint on this issue,

1 you're free to do so.

2 CHAIRMAN BURTON: Yeah, that's called the First
3 Amendment of the Constitution.

4 MR. DOMBROWSKI: I know, but we went through all
5 these hoops without her having informed me of that, when she
6 could have done that 90 days earlier, that's all.

7 CHAIRMAN BURTON: On the management thing, you
8 and I had long discussions when the bill was going through on
9 what is a manager, what isn't.

10 I've been into a lot of fast food joints, I've
11 been into a lot of grocery stores. They've got more managers
12 than you see as producers on some of these so TV shows. You
13 know, fresh produce, I mean, everybody's a manager for
14 something.

15 MR. DOMBROWSKI: Actually, it works out --

16 CHAIRMAN BURTON: I don't know if that's the
17 purpose to get them out from under the eight-hour, or if they're
18 just trying to make the person feel good, or who knows
19 what.

20 MR. DOMBROWSKI: No, this whole issue was not
21 going to -- it wasn't changing anything. It was simply trying
22 to get to the status quo.

23 CHAIRMAN BURTON: I'm not talking now about the
24 wage order and the thing. When we had the discussions about the
25 eight-hour day, who was exempt and who was a manager, and what
26 they had to do.

27 And you raised an issue that I thought was right.
28 You said, if a person's a manager, and a whole bunch of cans

1 fall down, and they happen to help restock the shelf, it doesn't
2 make him less of a manager.

3 But I've walked into a lot of retail
4 establishments, and now there's damn near more managers than
5 there are clerks, and they seem to be doing clerk work.

6 MR. DOMBROWSKI: What happened was, we went
7 through extensive hearings on that issue and made what I think
8 everyone would agree was a very minor, minor change. If an
9 activity was closely identified with managing, that would be
10 classified as exempt time.

11 My impression is that industry is actually
12 converting people more to hourly as opposed to trying to expand
13 the manager just because the standard in California is so
14 different from the federal standard.

15 CHAIRMAN BURTON: What would be an example of
16 closely aligned to management?

17 MR. DOMBROWSKI: If you were preparing a report
18 for your boss, and you're actually working on a laptop. You
19 could take the interpretation that that actual laptop work is
20 nonexempt work because it's administrative. But since you are a
21 manager and you're doing it, it's clearly closely aligned with a
22 manager.

23 CHAIRMAN BURTON: A manager, a legitimate manager
24 may be doing something in the course and scope of their job
25 that's not overseeing the world.

26 I'm worried about somebody who's really like a
27 clerk, and all a sudden that person --

28 MR. DOMBROWSKI: If you're flipping hamburgers

1 more than 50 percent of the time, you're not a manager. And,
2 you know, if you're working, waiting on customers more than 50
3 percent of the time, it's --

4 CHAIRMAN BURTON: Regardless of the badge.

5 MR. DOMBROWSKI: Your title does not matter.
6 Your title does not matter at all. What you are doing is what
7 the test is in California.

8 CHAIRMAN BURTON: When wage orders come up, how
9 often are you some touch, say, with the Director of Industrial
10 Relations or with their agents? Do they give you much direction
11 or input?

12 MR. DOMBROWSKI: Personal attendant wage order
13 that was just opened?

14 CHAIRMAN BURTON: Just generally, is there --

15 MR. DOMBROWSKI: Sometimes I am and sometimes I'm
16 not. Like the personal attendant, I didn't -- I didn't talk to
17 the Governor's office at all about that.

18 But when we were talking about sheep herders, I
19 did talk to him.

20 CHAIRMAN BURTON: It seems to be there were a lot
21 of wage orders dealing with carving exemptions, if you will, in
22 the eight-hour day, which you had the authority to do under the
23 law.

24 But I'm just wondering, you know, before you did
25 something, were you in touch with the Department of Industrial
26 Relations, or were they in touch with you saying, we think you
27 ought to be doing this?

28 In other words, are you guys an independent

1 commission?

2 MR. DOMBROWSKI: We're independent, but, Senator,
3 you know, frankly, I try to get input from them when I think
4 it's appropriate. I mean, I don't -- I wouldn't say they
5 dictate, but they do have an avenue to talk to me.

6 CHAIRMAN BURTON: They do have what?

7 MR. DOMBROWSKI: They do have an avenue to talk
8 to me if they want; I'm open. And I do solicit their input if I
9 think, you know, it's appropriate.

10 CHAIRMAN BURTON: Do they volunteer without you
11 soliciting sometimes?

12 MR. DOMBROWSKI: Rarely.

13 CHAIRMAN BURTON: I'm just trying to figure out
14 where it all comes from. Whether it comes from the IWC on their
15 own motion, whether it comes from the Director of Industrial
16 Relations, from whom it comes.

17 MR. DOMBROWSKI: Sometimes they do come to me.
18 I mean, I'm trying to think of an example, but I can't right off
19 hand. But it's not -- it's not on everything. It's not on half
20 the stuff. It's, I would say, where it's a big issue.

21 CHAIRMAN BURTON: You are the employer
22 representative on this thing, not the public member.

23 Do you have the authority, if you wanted, to
24 index minimum wage?

25 MR. DOMBROWSKI: I'm told we don't. That was
26 from Bridget Bane. The Executive Director researched that with
27 the AG's office, I believe.

28 CHAIRMAN BURTON: You can't index it? In other

1 words, you can raise it --

2 MR. DOMBROWSKI: We can raise it.

3 CHAIRMAN BURTON: You could double it, triple it,
4 quadruple it, but you can't --

5 MR. DOMBROWSKI: We cannot put it on index.

6 CHAIRMAN BURTON: You would need legislative
7 authority to do that?

8 MR. DOMBROWSKI: Right.

9 CHAIRMAN BURTON: Senator Johnson.

10 SENATOR JOHNSON: No questions.

11 CHAIRMAN BURTON: Senator Romero.

12 SENATOR ROMERO: Thank you.

13 Let me ask if you intend to support an appeal of
14 the Superior Court decision?

15 MR. DOMBROWSKI: Senator, I don't -- we don't
16 even have the judge's actual language at this point. And I was
17 not at the hearings.

18 SENATOR ROMERO: But it has been some time since
19 the Court came down with the decision?

20 MR. DOMBROWSKI: They haven't published it, or
21 given us his written decision. It was supposed to arrive this
22 week, but we haven't seen it yet.

23 CHAIRMAN BURTON: How long ago was that?

24 MR. DOMBROWSKI: It was weeks ago.

25 CHAIRMAN BURTON: More than that.

26 MR. DOMBROWSKI: I think it was --

27 CHAIRMAN BURTON: Seems like a heck of a long
28 time.

1 MR. DOMBROWSKI: I could be wrong, but March
2 14th, March 16th, but we still haven't seen the written
3 decision.

4 I don't even know --

5 SENATOR ROMERO: Can you pick up the phone and
6 just call and say -- I mean, it's public information; isn't it?

7 MR. DOMBROWSKI: I've been -- we've had our legal
8 counsel in contact with the Court trying to get it, but they
9 have been unsuccessful. And it's important to get that because
10 you then have a 60-day window to make your decision.

11 CHAIRMAN BURTON: So, he ruled but didn't file?

12 MR. DOMBROWSKI: I guess that's the legal
13 procedure.

14 CHAIRMAN BURTON: For some reason I thought that
15 court thing was a long time ago.

16 MR. DOMBROWSKI: It was mid-March.

17 CHAIRMAN BURTON: I would have thought it was
18 last March.

19 SENATOR ROMERO: Information age.

20 So, you have not had that discussion yet?

21 MR. DOMBROWSKI: No.

22 SENATOR ROMERO: Can I ask what are your
23 preliminary thoughts on that?

24 MR. DOMBROWSKI: I'd like to see what the judge
25 says, because I was not at any of the hearings to hear what his
26 reaction was to the IWC's arguments. I just don't know how else
27 to answer that.

28 SENATOR ROMERO: Can you tell us what the IWC has

1 spent in outside legal fees to defend the actions of the IWC?

2 MR. DOMBROWSKI: I don't know, Senator. There's
3 an Executive Director that actually manages it.

4 SENATOR ROMERO: Let me just go to the question
5 of the minimum wage. You're going to be taking a look at that
6 coming up soon?

7 MR. DOMBROWSKI: Yeah. There's a hearing on May
8 3rd at which there will be discussion and possible motion to go
9 to wage boards to look at raising the minimum wage.

10 At the March 11th hearing, I instructed staff to
11 make sure we put together a timeline that made it clear that
12 going through this process, if we wanted to raise it on January
13 1st, that that timeline would allow it.

14 So, there's not going to be any kind of
15 procedural problem. If there's three Commissioners who want to
16 raise the minimum wage January 1st, the process is going to
17 allow that.

18 SENATOR ROMERO: All right. Thank you.

19 CHAIRMAN BURTON: Senator Knight.

20 SENATOR KNIGHT: No questions.

21 CHAIRMAN BURTON: Senator Karnette.

22 SENATOR KARNETTE: No questions.

23 CHAIRMAN BURTON: Now, is it true that the AG is
24 not defending the IWC, or representing it?

25 MR. DOMBROWSKI: Not in that matter, on the
26 matter with the labor -- the current legal matter. Because they
27 expressed --

28 CHAIRMAN BURTON: It's just, you know, I would

1 hope you don't appeal, myself. As you know, I've got the
2 greatest respect for you. I think as far as, I mean, personal
3 and professional, I think the fact that you are the employer rep
4 gives you much more leeway than were you the public rep.

5 But I would really hope that you let this thing
6 go, because I just think it is a very contentious issue within
7 the Legislature. I think it could have an adverse affect on the
8 IWC, which I think performs a very important function. I think
9 that, by and large, except for a few slips which I was hoping we
10 could lay at the feet of somebody in the administration and not
11 you.

12 But anyway, I would just hope that you take a
13 very close look at what the judge said, because we could end up
14 -- I didn't know you were with Hill and Knowlton.

15 MR. DOMBROWSKI: That was a long time ago.

16 CHAIRMAN BURTON: You were from where in
17 Wisconsin?

18 MR. DOMBROWSKI: Stevens Point, middle of the
19 state.

20 SENATOR KARNETTE: My niece lives there right
21 now. She has a farm.

22 CHAIRMAN BURTON: And I spent five years in
23 Milwaukee.

24 MR. DOMBROWSKI: That explains a lot.

25 CHAIRMAN BURTON: You got a lucky break.

26 [Laughter.]

27 SENATOR JOHNSON: And I drank a lot of their
28 beer.

1 [Laughter.]

2 CHAIRMAN BURTON: Do you have your family here?

3 MR. DOMBROWSKI: My wife and my youngest son,
4 Tommy, are here.

5 CHAIRMAN BURTON: Witnesses in support. Are you
6 going to step up to the plate, Bruce, or leave him hanging?

7 BRUCE YOUNG [FROM THE AUDIENCE]: I'm not going
8 to oppose him.

9 [Laughter.]

10 CHAIRMAN BURTON: Are you coming up to --

11 MR. RANKIN: Not in support.

12 Tom Rankin, California Labor Federation.

13 First I'd like to actually commend Bill for his
14 long service on the IWC. I know it hasn't been easy.

15 The points that I wanted to make have basically,
16 I think, been made here. We're concerned about the lawsuit, the
17 procedure that was followed. The judge clearly said that they
18 didn't follow proper procedures and ruled in our favor. The
19 opinion was published Monday. A long delay in the publication
20 because the lawyer for the IWC basically was maneuvering around
21 and stalling everything out for as long as he could.

22 I certainly trust that they will not appeal this
23 case. I know how much the Federation has spent on local fees
24 already, and I'm sure, given their attorney, they probably have
25 spent twice as much.

26 CHAIRMAN BURTON: Who was their attorney?

27 MR. DOMBROWSKI: Sheppard, Mullin.

28 MR. RANKIN: We're also concerned about the

1 timing of the minimum wage increase. This is somewhat lessened
2 by the fact that the IWC has taken a clear position, both
3 Mr. Dombrowski and Mr. Smith, that they have no authority to
4 index the minimum wage, so we're dealing with that through
5 legislation.

6 And also the problem that started the whole
7 lawsuit, the Miles Locker opinion, actually needs a legislative
8 solution. We had one, and now that the lawsuit, hopefully, is
9 finished, maybe the employers will see the light and decide that
10 the way to fix this is through legislation, not through
11 litigation.

12 CHAIRMAN BURTON: So, what's Mr. Smith got to do
13 with the determination that they can't do --

14 MR. RANKIN: Well, I don't know. He was asked at
15 a budget hearing last week, with the Executive Director of the
16 IWC sitting next to him, and the question was asked. He chose
17 to answer it. She didn't.

18 CHAIRMAN BURTON: What did he say?

19 MR. RANKIN: He said that they had no authority
20 to index the minimum wage.

21 CHAIRMAN BURTON: I don't know if they do or
22 don't. It would seem to me, in a way, if you could raise it
23 every other day, you ought to be able to index it, but I don't
24 know whether or not the law says each time it goes up, you have
25 take action. I don't know.

26 MR. DOMBROWSKI: Sir, Tom might remember this
27 better than I, but the language in the statute, I believe, that
28 gives us the authority is that we can review the adequacy of the

1 minimum wage -- we must review the adequacy of the minimum wage
2 every two years. That's the statutory authority.

3 MR. RANKIN: It's silent --

4 CHAIRMAN BURTON: We can get an opinion on this,
5 but you could index it, and even indexing it, review whether or
6 not, even with -- the index would be a COLA, I guess -- even
7 with the COLA, is it adequate?

8 MR. RANKIN: That's been our position, but they
9 apparently don't believe that.

10 CHAIRMAN BURTON: I'm of the opinion that the
11 Director of Industrial Relations directs the Commission, to a
12 fair extent, on matters that are sensitive, shall we say, to the
13 body at large.

14 I intend to vote for the confirmation on two
15 bases. One, it's the business rep. Two, I trust him more than
16 other business reps, you know, to say the least.

17 And I think that clearly the message that I
18 really want to leave is, I don't see any need unless the opinion
19 is just so totally flawed, I don't see any reason to keep this
20 thing alive and be appealing it. I mean, the world hasn't
21 ended, and all of that stuff.

22 I mean, I understand what Tom Rankin's saying,
23 and I find that a problem more elsewhere than the Commission.

24 I think that, you know, we definitely are going
25 to deal with the public members a lot different than we do with
26 industry members, as we did with Forestry and as we did with
27 this, which I'm sure would be a work of real hardship on the
28 public member.

1 What do you guys get, about 50,000 a year?

2 MR. DOMBROWSKI: It's \$91 and, I think, 53 cents
3 after deductions on the \$100 per meeting.

4 MR. RANKIN: But part of that deduction goes to
5 your retirement.

6 [Laughter.]

7 MR. DOMBROWSKI: Which I've never understood.

8 MR. RANKIN: Temporary members, \$7 goes to
9 retirement.

10 MR. DOMBROWSKI: I think my money goes to help
11 fund some of yours.

12 [Laughter.]

13 CHAIRMAN BURTON: I move the nomination. Call
14 the roll.

15 MR. DOMBROWSKI: Thank you, Senator.

16 CHAIRMAN BURTON: Call the roll.

17 SECRETARY WEBB: Senator Karnette.

18 SENATOR KARNETTE: Aye.

19 SECRETARY WEBB: Karnette Aye. Senator Knight.

20 SENATOR KNIGHT: Aye.

21 SECRETARY WEBB: Knight Aye. Senator Romero.

22 SENATOR ROMERO: Aye.

23 SECRETARY WEBB: Romero Aye. Senator Johnson.

24 SENATOR JOHNSON: Aye.

25 SECRETARY WEBB: Johnson Aye. Senator Burton.

26 CHAIRMAN BURTON: Aye.

27 SECRETARY WEBB: Burton Aye. Five to zero.

28 CHAIRMAN BURTON: Congratulations, Bill.

1 MR. DOMBROWSKI: Thank you.

2 CHAIRMAN BURTON: Carlos Ramos, Director of the
3 Stephen P. Teale Data Center.

4 Go ahead, Senator.

5 SENATOR MACHADO: Thank you, Senator Burton.

6 I'm here to introduce Carlos Ramos for the
7 confirmation as Director for the Teale Data Center. He's a
8 constituent of mine in the Fifth Senatorial District. He
9 resides in the community of Elk Grove.

10 Prior to his appointment, Carlos has served as
11 Deputy Director of the California Department of Social Service,
12 with responsibilities for the Informational Systems Division.
13 As Director of the ISD, Carlos served as the Department's Chief
14 Information Officer and was responsible for managing the
15 department's IT assets and statewide IT structure.

16 He's well aware of the role of IT in government
17 and the need to make it work, given what has happened in the
18 past week.

19 He has served in numerous other positions in
20 state government, and he brings a rare combination of being a
21 dedicated public servant and a creative and innovative leader.
22 I believe he would do the Data Center justice and urge your
23 favorable consideration of his appointment to that position.

24 MR. RAMOS: Thank you, Mr. Chair and Members.
25 And thank you, Senator Machado.

26 Mr. Chair and Members, I'm Carlos Ramos, Director
27 of the Teale Data Center. I'm very pleased to be here with you
28 this afternoon.

1 I've submitted previously some information on my
2 goals for Teale as well as my experience, but I do have a
3 statement that I've prepared, with your indulgence.

4 The Teale Data Center is the department that
5 provides technology services to other departments and agencies.
6 As such, Teale plays an important role in helping state
7 government to deliver services to its constituents.

8 In recognition of the critical role that
9 technology plays, the state has made a significant investment in
10 the infrastructure out at Teale. That infrastructure includes
11 multiple computing platforms, everywhere from mid-range
12 mainframes to internet platforms. We also own and operate a
13 statewide communication network which enables state offices and
14 staff throughout California to connect to their IT systems 24
15 hours a day, 7 days a week, 365 days a year.

16 The other critical component of the
17 infrastructure is the staff of managerial and technical
18 professionals out at Teale that help run the Data Center and
19 provide consultation and expertise to our customers. We have
20 250 different agencies as our customers, including,
21 coincidentally, the Senate Rules Committee.

22 Teale's completely self-supporting. What that
23 means is, we generate our revenues through the services that we
24 offer to our customers. We are a state agency, so that means we
25 operate on a not-for-profit basis, and so we offer competitive
26 rates to our customers.

27 I took the helm at Teale in December. As
28 Director, it is my job to make sure that the Data Center is

1 prepared to meet the technology services needs of our customer
2 departments. What that means is, first and foremost, I need to
3 understand the business of government. I need to know what my
4 client departments do, who they serve, and what are the
5 expectations of their constituents and their customers.

6 Secondly, it's my job to understand technology
7 and what's going on in the technology industry, and to know how
8 what is happening in the technology industry impacts the Data
9 Center as well as our customers.

10 Then thirdly, it's my job to work with our
11 customers to ensure that the appropriate application of
12 technology is used to better serve California and its
13 constituents.

14 As the Director, I have three simple goals for
15 the Data Center. First, I would like Teale to be not just a
16 provider of excellent technology services, but an actual partner
17 in working with our customer departments in the delivery of
18 important government services.

19 Secondly, I would like to see the state better
20 leverage the investment it has already made at Teale and in the
21 Data Center and its infrastructure. The state owns a world
22 class technology center in Teale. And while we still have some
23 departments that try and go out and build, and develop, and
24 deploy technology systems, I'm basically starting from scratch.
25 I'd like to see them more closer in partnership with Teale, to
26 not have to start at ground level.

27 Thirdly, I would like Teale to become a
28 technology services provider, not only to the state, but to

1 other sectors of government as well. We already work with a
2 number of local jurisdictions, and during my tenure, I intend to
3 work with school districts, with local and city and county
4 governments, and other jurisdictions so that they also don't
5 have to start from scratch as they start looking for IT
6 solutions.

7 Since I promised to keep my statement brief, I
8 will end here, but I will wrap up by telling you that I'm very
9 excited about the opportunity to be at Teale and the opportunity
10 to create some synergy with my customer departments to better
11 deliver services to the State of California.

12 I will also tell you that as a public servant,
13 I'm very dedicated and consider myself a steward of the state's
14 technology investment which it has made at Teale Data Center.
15 As such, I plan to hold myself accountable not only to my
16 customers, but also to the Legislature and to the people of
17 California during my tenure at Teale.

18 I'll stop here, but I'd be happy to go into more
19 information and more details on any of the information I've
20 provided.

21 Thank you very much.

22 SENATOR JOHNSON: Can you tell us what have you
23 done to ensure that employees at the Data Center have no
24 conflicts of interest in awarding contracts?

25 MR. RAMOS: Certainly, Senator.

26 We do take that have seriously at Teale. One of
27 the things that we do is, staff that are involved in the
28 negotiation of contracts, or awarding of contracts, do have to

1 fill out what is called a Form 700, the Conflict of Interest
2 statement. All of the executive staff, and I believe all of the
3 managerial staff as well, which basically lays out they're
4 required to disclose any interest that they have in any other
5 ventures outside of state service.

6 So, we manage those. Staff are required to fill
7 those out, and we review them regularly. We have our staff
8 counsel review them to identify any potential conflicts. And if
9 there are conflicts, then those staff are excused from awarding
10 or being involved in any contracts that could be a potential
11 conflict.

12 SENATOR JOHNSON: Is it a question just handing
13 somebody a form and saying, you've got to turn this in, and
14 you've got to turn it in by X date? Or, does someone talk to
15 them about both the letter and the spirit of the law, and what
16 the obligations are, and what the importance of ensuring that
17 there is no either actuality or appearance of a conflict?

18 MR. RAMOS: Thank you, Senator, for reminding me.

19 Yes. In fact, it isn't just giving them a form
20 and asking them to turn it in.

21 We do actually send them through ethics training,
22 and we do have an ethics officer who's on site and responsible
23 for making sure folks understand that it's not just an exercise,
24 that we take it seriously.

25 SENATOR JOHNSON: What percentage of that
26 individual's time is spent on that kind of heightening of
27 awareness of ethical considerations?

28 MR. RAMOS: I wouldn't be able -- I'd be

1 guessing right now, Senator.

2 In terms of the training that goes on, we work
3 both -- I don't think the individual is solely responsible for
4 the training.

5 SENATOR JOHNSON: How many people have
6 responsibilities that involve the negotiations of contracts?

7 MR. RAMOS: I would say probably a couple of
8 dozen, Senator. That would include managers, and supervisors,
9 and executive staff, as well as folks that are involved in the
10 actual procurement process and the contracting process.

11 We have a contracting unit, and then we have an
12 administrative staff.

13 SENATOR JOHNSON: Can you tell me a little bit
14 about the approval process, let's say, that is gone through?
15 You have a technology contract. It's solely within the Data
16 Center purview. What kind of approval process does that bump up
17 the line?

18 We've seen the hearings in the last few days
19 regarding another contract. And the impression I had was that
20 nobody was in charge, and everybody's kind of around the room,
21 pointing at somebody else, you know, whether it's Susan Kennedy,
22 or it's General Services and Senator Keene, or it's Department
23 of Finance, or just who's in charge.

24 So, I'm interested in what kind of approval
25 processes are involved. Is it a similar situation where, you
26 know, everybody's in charge so therefore, nobody's in charge?

27 MR. RAMOS: Certainly.

28 We actually have a very rigorous approval

1 process. Most of the contracting -- the contracting that we do
2 out at Teale falls into three different categories. We either
3 contract for services, contract for software or for hardware
4 equipment essentially.

5 In either case, we start off first by identifying
6 what is the need for whatever we're trying to contract for,
7 whether it's a good or a service, validating that need.
8 Sometimes we contract on behalf of our customers, so we go back
9 to the customers to make sure there really is a need for
10 whatever service or good that we're trying to contract.

11 After we identify what the need is and validate
12 that it, in fact, exists, we identify what other products or
13 services --

14 SENATOR JOHNSON: You're talking about other
15 agencies, not restricted to state?

16 MR. RAMOS: No, state agencies, state
17 departments, primarily.

18 Once we've identified that there is a valid need,
19 we identify whether the product --

20 SENATOR JOHNSON: Excuse me for interrupting, but
21 how do you do that typically?

22 MR. RAMOS: Well, we first look at what is the
23 business need that they're trying to accomplish; what is the
24 need that they're trying to meet. Find out if it is something
25 that cannot be provided for either with current existing
26 resources, state staff, other technology we may already have on
27 site, software that we already own.

28 Once we make a determination, and again, we work

1 with our customers to do that. Once we make a determination
2 that there is actually a valid need, then we identify the
3 products and --

4 SENATOR JOHNSON: Let me tell you what bothers me
5 about that a little bit. I'm potentially a customer, and I know
6 absolutely nothing about it.

7 How do I gain some assurance that the people that
8 you're talking to really have any greater grasp than I would
9 have?

10 I mean, I can assume that they have some grasp of
11 what it is they're trying to do. But what that translates into
12 in terms of technology needs, that's another question
13 altogether.

14 MR. RAMOS: The folks that we work with, the
15 customers, we work both with the business side of the house, and
16 most departments have some sort of a technology shop in there.

17 Secondly, we also use our own experts.

18 SENATOR JOHNSON: DMV, for example? I'm being
19 flip.

20 MR. RAMOS: We also do have the technical staff
21 and technological experts that work at the Data Center. So, our
22 staff work in coordination with them.

23 Anyway, the process is: identify any products,
24 any potential alternatives to those products; identify who are
25 the different sellers of those products; what are the different
26 procurement options, whether we can go through Siemens, for
27 example. Or, do we need to go out to bid and then negotiate the
28 best deal we can.

1 Once we've identified that, we do have some
2 thresholds that we have in terms of what we're allowed to
3 negotiate on our own. Anything below half a million dollars,
4 the Data Center can work with on its own. Beyond that, then we
5 have to work with our control agencies and go through a more
6 rigorous process.

7 SENATOR JOHNSON: One final question, and that
8 is, in dealing with people in these departments and so on, and
9 you've indicated that you try to make clear to the folks who are
10 involved in procurement, contracts, of the need to avoid any
11 possibility or appearance of a conflict of interest.

12 What about the folks on the other end, the
13 customers that you're talking about? What steps are taken to
14 ensure that there're not conflicts of interest there, so that we
15 can rest assured that they're not providing you with information
16 that's inaccurate that would lead to a result that they intend,
17 but may or may not be in the best interest of taxpayers?

18 MR. RAMOS: Our jurisdiction is fairly limited in
19 terms of other state agencies, being able to impose requirements
20 or anything like that.

21 They do have the same conflict of interest
22 requirements, but those would be enforced by their own
23 management.

24 SENATOR JOHNSON: So basically, it's just a
25 question of, you trust them. That's what it sounds like you're
26 saying.

27 MR. RAMOS: To a certain extent we trust --

28 SENATOR JOHNSON: We presume the customer is

1 always right.

2 MR. RAMOS: Well, to a certain extent we trust
3 them, but we do work collaboratively with them. I mean, we
4 work -- usually it's not a single person from the other agency.
5 It's usually a team of people.

6 And I think the process by, first of all,
7 verifying that there's a need, verifying that the technology
8 actually or the product that they're requesting actually is the
9 only alternative, or the best possible alternative. There's
10 quite a bit of analysis that goes into that.

11 So, generally, the process, I think, would show
12 if there is somebody that's directing --

13 SENATOR JOHNSON: With respect, it doesn't sound
14 a whole lot different from I read and heard of the Oracle
15 process. It sounds remarkably similar.

16 Senator Burton, questions?

17 CHAIRMAN BURTON: Senator Romero.

18 SENATOR ROMERO: No questions.

19 CHAIRMAN BURTON: Senator Knight.

20 SENATOR KNIGHT: Thank you, Mr. Chairman.

21 If I understand you correctly, you put out an RFP
22 for a contract?

23 MR. RAMOS: We do in certain cases if they're
24 large contracts.

25 SENATOR KNIGHT: Within that, do you have a
26 preferred bidders list that you have qualified people, and
27 you've investigated them and their background as to their
28 capability to perform?

1 MR. RAMOS: When we go out to a formal RFP,
2 Senator, there is a bidder pre-qualification process. Some of
3 it is managed by Department of General Services, also our own
4 staff get involved in that.

5 Separate and apart from that process, the
6 Department of General Services does have what's called the CMS
7 process in which they do go out and do a pre-qualification of
8 vendors. So, they go through a process where vendors have to
9 submit information about their qualifications, what projects
10 they've worked on, customer references, those sorts of things.
11 And they go through that process on an annual basis.

12 SENATOR KNIGHT: In that process, along with what
13 Senator Johnson asked, would ethics be part of that?

14 MR. RAMOS: In terms of private sector companies,
15 I believe it is, but I'm not certain of that.

16 CHAIRMAN BURTON: Senator Karnette.

17 SENATOR KARNETTE: I'm a bit concerned about the
18 age of your workers, that you have some strategies to get some
19 qualified people in before they all retire.

20 MR. RAMOS: Yes. We are facing, along with other
21 departments in the state, the aging of our workforce. We've
22 done some tracking in terms of identifying what the average age
23 is of our management workforce, for example, and our line
24 staff.

25 We're doing a couple of things. One is, we're
26 trying to establish feeder programs with the technical schools
27 in the area. We're also trying to work on development. So what
28 we do is, we hire students, for example, to come and work at

1 Teale Data Center, expose them to what it's like to work in the
2 state, and then, you know, hopefully develop a pool of
3 candidates for future vacancies.

4 Second, we also work in development of staff once
5 they're already there. So, we train them not only for the job
6 they have today, but also potentially for the job of tomorrow,
7 whether it's in the management ranks or as they move into
8 different areas of technology.

9 Frankly, we've been a bit challenged of late with
10 the hiring freeze. Along with other departments, we've been
11 impacted with that. And so, we're seeking exemptions so that we
12 can make sure we keep folks in the pipeline, and that we're also
13 able to serve our customers.

14 SENATOR KARNETTE: Good luck.

15 CHAIRMAN BURTON: Would you like, if your
16 family's here, to introduce them?

17 MR. RAMOS: Yes, please. I have with me today my
18 wife, Valerie Ramos, a principal at David Levy Elementary
19 School. So, I talked her into taking a couple of hours today.

20 My two children, Veronica and Daniel, who are off
21 track. They're not actually playing hooky today.

22 Thank you, Senator.

23 CHAIRMAN BURTON: Sort of an open ended question,
24 but what type of safeguards do you have in place that would
25 prevent like what happened in the Oracle deal happening with any
26 of your purchases?

27 MR. RAMOS: Well, I guess I'd start by saying my
28 understanding of what happened in the Oracle process is somewhat

1 limited, as I wasn't personally involved with it, and have
2 basically gathered information from that at the hearing as well.

3 CHAIRMAN BURTON: You weren't involved in it.

4 MR. RAMOS: No.

5 CHAIRMAN BURTON: So you know what we know, what
6 you read in the paper?

7 MR. RAMOS: That and through the hearing and the
8 audit. I did read the audit.

9 My understanding of what went wrong is basically
10 there wasn't a good process in place to negotiate the contract,
11 and to negotiate a deal of that type.

12 I think the process that we use at Teale is a
13 very rigorous process, in that, one, before we get into any
14 deal, we validate that there is in fact a need for the product,
15 or software in this case. We identify any potential
16 alternatives to that product. We look for who the different
17 sellers are of the product, go out to bid or go out and solicit
18 multiple competing bids so that we can ensure that the prices
19 that are quoted to us are accurate.

20 Then I guess the other thing that we do is, we
21 primarily, in effect, exclusively go out and procure products
22 for an already known and identified need. So, you know, we
23 don't procure, for example, software on a contingent basis.

24 CHAIRMAN BURTON: Software that you might need in
25 ten years.

26 MR. RAMOS: Right. We purchase essentially for
27 whatever our customers need, and we know that they need because
28 we track their historical utilization, or for our own internal

1 projects.

2 CHAIRMAN BURTON: Witnesses in support?

3 MR. RAMIREZ: Mr. Chairman, Members. My name is
4 Frank Ramirez. I represent the American GI Forum, and I come in
5 strong support by both the State Commander and the National
6 Commander.

7 Carlos Ramos is a fine example of competence and
8 diversity that we need in the workforce. We're in strong
9 support.

10 MR. AZIMI: Mr. Chair and Members, my name is
11 Nasser Azimi. I'm the Chief Information Officer of the San
12 Francisco Unified School District.

13 I'm a strong supporter of the Director's
14 confirmation. I have had the opportunity to work for the
15 Director, work with him, and work against him in some instances.
16 He's one of the most credible individuals in the industry, and I
17 fully support his appointment.

18 CHAIRMAN BURTON: Your job is what with the
19 school district?

20 MR. AZIMI: I'm the Chief Information Officer for
21 the school district.

22 CHAIRMAN BURTON: Any witnesses in opposition?
23 Move the nomination.

24 SECRETARY WEBB: Senator Karnette.

25 SENATOR KARNETTE: Aye.

26 SECRETARY WEBB: Karnette Aye. Senator Knight.

27 SENATOR KNIGHT: Aye.

28 SECRETARY WEBB: Knight Aye. Senator Romero.

1 SENATOR ROMERO: Aye.

2 SECRETARY WEBB: Romero Aye. Senator Johnson.

3 SENATOR JOHNSON: Aye.

4 SECRETARY WEBB: Johnson Aye. Senator Burton.

5 CHAIRMAN BURTON: Aye.

6 SECRETARY WEBB: Burton Aye. Five to zero.

7 CHAIRMAN BURTON: Congratulations.

8 MR. RAMOS: Thank you.

9 [Thereupon this portion of the
10 Senate Rules Committee hearing
11 was terminated at approximately.

12 3:00 P.M.]

13 --ooOoo--

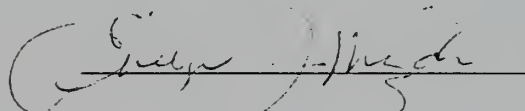
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I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 26th day of April, 2002.


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APPEARANCESMEMBERS PRESENT

SENATOR JOHN BURTON, Chair

SENATOR BETTY KARNETTE

SENATOR WILLIAM KNIGHT

SENATOR GLORIA ROMERO

MEMBERS ABSENT

SENATOR ROSS JOHNSON, Vice Chair

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NETTIE SABELHAUS, Consultant on Governor's Appointments

SUSIE SWATT, Consultant to SENATOR JOHNSON

CHRIS BURNS, Consultant to SENATOR KNIGHT

RYAN SHERMAN, Consultant to SENATOR ROMERO

ALSO PRESENT

ROBERT L. BAGLENORTH, Member
California Transportation Commission

SENATOR TOM TORLAKSON

TOM RANKIN
California Labor Federation

SCOTT WETCH
State Pipe Trades Council; State Association of Electrical
Workers; Western States Sheetmetal Workers

BILL POWERS
Congress of California Seniors; Alliance for Retired Americans

D.J. SMITH
Transportation California

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3. Methodology

4. Results

5. Discussion

6. Conclusion

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2 California Transportation Commission

3 SENATOR RICHARD POLANCO
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P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

CHAIRMAN BURTON: If you don't mind, we'll take Mr. Balgenorth out of order. He's got a meeting.

Robert Balgenorth, Member, California Transportation Commission.

MR. BALGENORTH: My name is Bob Balgenorth. I'll tell you a little bit about my background.

I started out as a merchant seaman. I became an electrician in 1969 and have been active in the labor movement ever since.

I've served on numerous committees and commissions, and I have an active interest in transportation issues. The unions that I represent, about two hundred construction unions, a lot of the work that they do is building roads, bridges, dams, airports, and rail transit, and things of that nature. So, I have an interest in expediting construction projects of any kind, and interest in making sure that the highway and travel needs of the state are met.

I stand ready to answer any questions that you have.

I do understand that my responsibility is not only that the Governor appointed me, but I do understand that the Legislature has a lot to say about what happens on Transportation Commission's issues. I respect that and am interested in your opinions.

CHAIRMAN BURTON: Are you here to --

SENATOR TORLAKSON: I think he's done an able job

1 already himself.

2 You know him well as a leader, a great labor
3 leader in the state, working on the apprenticeship councils, and
4 then he's taken on the leadership of the building trades at a
5 critical time, and then contributed countless hours as co-chair
6 of the Twenty-first Century Infrastructure Commission.

7 A former merchant seaman, which we share in
8 common, that little bit of heritage. But hard working and
9 someone I think will do an outstanding job in this position,
10 actually creating the infrastructure of California.

11 CHAIRMAN BURTON: One of the things that's come
12 up because of the General Fund shortfalls, the Governor's budget
13 proposals to transfer or loan money from the TCRF funds into the
14 General Funds with loans, maybe even proposed from the State
15 Highway Account, to back-fill the money that was taken from
16 TCRF.

17 Do you have any idea what kind of terms,
18 conditions, or limits we should put on these? What the interest
19 should be, certain repayment stuff?

20 If you haven't given any thought to it, that's
21 fine, too.

22 MR. BALGENORTH: I haven't given a lot of thought
23 to it.

24 What I would say is that I think it would be
25 imperative that the funds come back so that none of the -- in a
26 timely manner -- so that none of the projects would be delayed,
27 and I would be a strong advocate of making sure the money come
28 back.

1 My understanding is that by temporarily loaning
2 the money to the General Fund that there will be no delays in
3 any of the projects, provided the Legislature in the budget
4 language makes sure that the money does come back in a timely
5 manner.

6 CHAIRMAN BURTON: Senator Knight.

7 SENATOR KNIGHT: Have you heard of Highway --

8 CHAIRMAN BURTON: We should have briefed him on
9 that one.

10 MR. BALGENORTH: I've definitely heard of 138 and
11 numerous other projects, and I have an open mind.

12 CHAIRMAN BURTON: He's not interested in open
13 mind.

14 [Laughter.]

15 SENATOR KNIGHT: Straight down the line.

16 CHAIRMAN BURTON: Before we leave, I'm going to
17 see that project completed.

18 SENATOR KNIGHT: We only have two years, John.

19 CHAIRMAN BURTON: Pete, between the two of us, if
20 I can straighten you out on a couple of matters.

21 [Laughter.]

22 CHAIRMAN BURTON: Senator Romero.

23 SENATOR ROMERO: I'm not even going to ask about
24 the 710. There's got to be another issue there.

25 Let me ask you, today there was a rally from
26 AARP. One of their big issues that they took up was providing
27 greater services to improve the mobility for seniors, and the
28 elderly.

1 What are your thoughts on that with respect to
2 transportation?

3 MR. BALGENORTH: I think that all of our citizens
4 should be able to take advantage of our transportation system.
5 I think that there needs to be some mechanisms to make sure that
6 all of those concerns are addressed.

7 I'm not certain how you go about that. I've only
8 been on the Commission for one month, but I certainly would be
9 interested in finding a way to see that our seniors and disabled
10 have a way to be mobile in our state.

11 SENATOR ROMERO: Thank you.

12 CHAIRMAN BURTON: Senator Karnette.

13 SENATOR KARNETTE: As a merchant seaman, I'm
14 interested in how you feel about transporting of goods, and what
15 we need to do? How can we help in that area of getting goods
16 transported to their destination in an efficient and effective
17 manner?

18 MR. BALGENORTH: Well, there are a couple things.
19 We are the gateway to the rest of the nation from the Pacific
20 Rim, so I think that it's important that you have harbors that
21 can bring goods in, and that you have rail and good road
22 transportation from the ports in a way that it doesn't impact
23 the residents of the community. So, you're going to have to
24 deal with great separation. You're going to have to deal with
25 access, and all those issues.

26 CHAIRMAN BURTON: I have one question, and we're
27 sitting there with somebody who's really into it.

28 What role do you think that the Transportation

1 Commission can play addressing jobs, housing imbalance, where
2 they have the jobs here; there's no housing available. People
3 then drive, like, some a couple hours to get to work. I think
4 down in Santa Clara now, one of the big builders down there is
5 Steve Schott. He told me that he's building down in Soledad. I
6 don't know if there's much of a freeway going there.

7 I mean, what kind of role do you think they could
8 play in sort of trying to at least coordinate things to a
9 certain extent, if possible?

10 MR. BALGENORTH: I would think transportation
11 projects that met the state's goals and the state's needs
12 would -- should have priority over ones that don't.

13 The state only has a limited amount of money that
14 they have control over. I guess 25 percent of the STIP goes to
15 state, and 75 percent of local. Maybe we need to look at some
16 form of allocation of that, and some mechanism to say that these
17 are projects that don't create more problems for us; instead,
18 that solve problems.

19 CHAIRMAN BURTON: Witnesses in support?

20 SENATOR KNIGHT: Mr. Chairman, I do have one.

21 Did you happen to see a program last night on
22 "Dateline" that dealt with the hazardous highways of the
23 country?

24 MR. BALGENORTH: No, I did not.

25 SENATOR KNIGHT: With all due respect,
26 Mr. Chairman, 138 was one of those highways, and 395 was another
27 one. They didn't mention 710.

28 But interestingly enough, they were very much

1 concerned about the safety of those highways and the number of
2 people that were killed on them.

3 It is a serious issue within my district.

4 Thank you.

5 CHAIRMAN BURTON: Where is 710 now? Did we pass
6 a bill to build it, or we passed a bill not to build it? We've
7 had that three sessions running. What's the present status:
8 don't build or build?

9 SENATOR KARNETTE: Well, we keep voting on it.
10 We keep voting to do it, and so far, it's not built.

11 CHAIRMAN BURTON: I think the last one, we voted
12 not to do it.

13 SENATOR ROMERO: It's in court.

14 SENATOR KARNETTE: Well, Jack Scott doesn't have
15 that area any more, so maybe he'll vote yes.

16 CHAIRMAN BURTON: But other people do.

17 Anyway, Mr. Rankin.

18 MR. RANKIN: Tom Rankin, California Labor
19 federation in support of Bob's confirmation.

20 I've sat on committees with him for a number of
21 years. He's a good consensus builder. I've also spent a lot of
22 time on the road with him, and I can attest to his interest in
23 transportation.

24 MR. WETCH: Mr. Chairman, Scott Wetch on behalf
25 of the State Pipe Trades Council, the State Association of
26 Electrical Workers, and the Western States Sheetmetal Workers
27 Association in strong support.

28 MR. POWERS: Bill Powers, Congress of California

1 Seniors and Alliance for Retired Americans.

2 I'm glad you asked that question. It's an
3 important question for us.

4 We've worked with Mr. Balgenorth for a number of
5 years on many issues. We know he's supportive of senior
6 concerns, and we strongly urge an aye vote.

7 MR. SMITH: D.J. Smith, representing
8 Transportation California, a consortium of all the contractors
9 and vendors who build the transportation systems, and the trade
10 unions.

11 We're in strong support. I've known Bob for ten
12 years. He's been in the trenches, is a supporter of
13 transportation every step of the way. So, I think there's no
14 one that we can think of that would know more about this program
15 from the construction side. Certainly, project delivery is a
16 big issue, as we all know. So, we strongly support
17 Mr. Balgenorth.

18 CHAIRMAN BURTON: Witnesses in opposition?
19 Move the nomination. Call the roll.

20 Did you bring any family?

21 MR. BALGENORTH: Yes, I did. I have my wife,
22 Gail, in the audience.

23 CHAIRMAN BURTON: Call the roll.

24 SECRETARY WEBB: Senator Karnette.

25 SENATOR KARNETTE: Aye.

26 SECRETARY WEBB: Karnette Aye. Senator Knight.

27 SENATOR KNIGHT: Aye.

28 SECRETARY WEBB: Knight Aye. Senator Romero.

1 SENATOR ROMERO: Aye.

2 SECRETARY WEBB: Romero Aye. Senator Burton.

3 CHAIRMAN BURTON: Aye.

4 SECRETARY WEBB: Burton Aye. Four to zero.

5 CHAIRMAN BURTON: Congratulations.

6 MR. BALGENORTH: Thank you very much.

7 [Thereupon the Rules Committee
8 acted upon legislative matters.]

9 CHAIRMAN BURTON: Allen Lawrence, Member,
10 California Transportation Commission.

11 How are you, Allen?

12 MR. LAWRENCE: Doing fine, Senator.

13 My name is Allen Lawrence. I'm with the
14 California Transportation Commission. I just finished my second
15 year on the Commission.

16 It's been an outstanding learning experience, and
17 gave me an opportunity to do public service as well as be an
18 independent business person in California. I'm a partner in a
19 major California insurance brokerage firm. My partners that run
20 the business have allowed me to take time off to do public
21 service. It certainly has been a rewarding experience, feeling
22 very good about the accomplishments.

23 I live in Southern California. Have four grown
24 daughters. Live in West Lake Village.

25 CHAIRMAN BURTON: You were confirmed once
26 already.

27 MR. LAWRENCE: I was confirmed, Senator.

28 CHAIRMAN BURTON: It was a short term.

1 MR. LAWRENCE: Right.

2 CHAIRMAN BURTON: Anything bad happen in that
3 year?

4 MR. LAWRENCE: I think it was generally a good
5 two-year experience.

6 CHAIRMAN BURTON: You heard the questions that we
7 asked Mr. Balgenorth. One was about the loans, or taking money
8 out of your funds, then backfilling that with some highway funds
9 to bail out the General Fund.

10 His comments were ones that actually made sense.
11 If you needed the money, do it, but have a pay back position and
12 don't put us in a thing where much needed projects are delayed
13 or denied.

14 I would imagine you'd agree with that?

15 MR. LAWRENCE: I do agree with that.

16 CHAIRMAN BURTON: Can you comment a bit on the
17 so-called jobs/housing balance as it relates to transportation?

18 MR. LAWRENCE: Sure. I think that the --
19 obviously, we need to consider higher density communities around
20 rail stops and transit stops, and to build integrated
21 communities that have jobs, housing, recreation, shopping, all
22 near to where people live. I think these planned communities
23 are important, an important ingredient to doing that.

24 CHAIRMAN BURTON: Senator Romero.

25 SENATOR ROMERO: Thank you.

26 I'd be interested to hear your views on STIP
27 funding. And under, of course, Senate Bill 45, whether it's
28 working or not, or if we should take a look at perhaps some

1 other type of distribution of responsibility and funds?

2 MR. LAWRENCE: Well, STIP funding under SB 45 is
3 working. I think that in our annual report to the Legislature,
4 which was published, I believe, early December of last year, one
5 of the recommendations we made is that SB 45 be revisited
6 relative to looking at how the percentages that we fund to the
7 local regional agencies and what Caltrans -- what the Department
8 retains for the shop and for the ITIP.

9 Right now, the regional agencies get 75 percent
10 of the STIP funds, and the ITIP, the Interregional
11 Transportation Improvement Program, gets 25 percent.

12 So, I think that perhaps we should look at
13 perhaps an allocation that's higher than 25 percent, perhaps as
14 much as 50 percent, so that the state can actually finish the
15 major corridor projects instead of fragmenting the monies in the
16 local regions, where the local regions hand out the funds to the
17 smaller cities, and they use the funds as they wish.

18 I mean, we have some major, important freeway
19 projects that we need additional capacity on, and we need to
20 complete them. And I think that is something that I would
21 encourage the Legislature to look at seriously.

22 CHAIRMAN BURTON: Senator Polanco.

23 SENATOR POLANCO: Mr. Chairman, Members of the
24 this distinguished committee.

25 I'm here to ask full support of Allen Lawrence.
26 Allen Lawrence has been a friend for over twenty years. He is a
27 distinguished community leader, great businessman, has served on
28 this commission, has done an excellent job. And I wanted to

1 come down here to personally lend my support and ask you to move
2 the confirmation of this fine gentleman, my friend.

3 Thank you.

4 CHAIRMAN BURTON: Senator Knight.

5 SENATOR KNIGHT: We've already had our
6 discussions today about the appropriate highways, but I will
7 ask, did you see the "Dateline" last night concerning the
8 dangerous highways within the country?

9 MR. LAWRENCE: Unfortunately I didn't, Senator
10 Knight. I had to go to bed early because I had to get up at
11 4:30 this morning to catch a plane. So, I didn't see that, but
12 I'm aware of the 138 as being one of the -- the "Readers'
13 Digest" a year or two ago ran a feature article on a number of
14 the death alleys throughout the United States, and 138 was
15 listed among them.

16 Certainly, highway safety is one of the most
17 important things that concern the Commission and the Department
18 and the administration. And we have taken every opportunity to
19 be of assistance in funding not only the 138, but other
20 corridors throughout the state that have similar problems. And
21 certainly, that is a major concern of ours, and we continue to
22 look at that and focus on it.

23 SENATOR KNIGHT: Yes, 138 and 395 were both
24 listed last night as dangerous highways, blood alleys, et
25 cetera.

26 MR. LAWRENCE: And I know that in the latest
27 STIP, the 395 has got a considerable amount of money for
28 improvements on that as well.

1 SENATOR KNIGHT: Thank you.

2 CHAIRMAN BURTON: Senator Karnette.

3 SENATOR KARNETTE: I was interested in what you
4 said about SB 45. The goods movement issue that I brought up
5 before, if the funding formula was changed a bit, would that
6 relate? You were talking about corridors, mainline corridors.
7 Would that help in goods movement in this area?

8 MR. LAWRENCE: I think it would, because I think
9 that if the state had more of the funds than the 25 percent that
10 they're using in the ITIP, they could prioritize the major
11 corridors that need the most investment, and certainly direct
12 the money there and get the regional agencies to buy in, too.

13 You know, I think one of the things that the
14 Department is doing now with the ITIP money that they have, they
15 are now looking at investing that ITIP money when they have
16 regional support. And certainly if we have more ITIP money, we
17 can do more of that and really assist in the goods movement,
18 which is, you know, a major economic benefit to the state and
19 the nation.

20 SENATOR KARNETTE: Thank you.

21 CHAIRMAN BURTON: Witnesses in support?

22 Your family didn't get up at 4:00 in the morning?

23 MR. LAWRENCE: Just my transportation family in
24 the audience.

25 CHAIRMAN BURTON: All right.

26 Witnesses in opposition?

27 Move the nomination. Call the roll.

28 SECRETARY WEBB: Senator Karnette.

1 SENATOR KARNETTE: Aye.

2 SECRETARY WEBB: Karnette Aye. Senator Knight.

3 SENATOR KNIGHT: Aye.

4 SECRETARY WEBB: Knight Aye. Senator Romero.

5 SENATOR ROMERO: Aye.

6 SECRETARY WEBB: Romero Aye. Senator Burton.

7 CHAIRMAN BURTON: Aye.

8 SECRETARY WEBB: Burton Aye. Four to zero.

9 CHAIRMAN BURTON: Congratulations, Allen.

10 MR. LAWRENCE: Thank you.

11 [Thereupon this portion of the
12 Senate Rules Committee hearing
13 was terminated at approximately.

14 4:04 P.M.]

15 --ooOoo--

CERTIFICATE OF SHORTHAND REPORTER


I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing transcript of the Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn J. Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this

9th day of May, 2002.


EVELYN J. MIZAK
Shorthand Reporter

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APPEARANCESMEMBERS PRESENT

SENATOR JOHN BURTON, Chair

SENATOR BETTY KARNETTE

SENATOR WILLIAM KNIGHT

SENATOR GLORIA ROMERO

MEMBERS ABSENT

SENATOR ROSS JOHNSON, Vice Chair

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NETTIE SABELHAUS, Consultant on Governor's Appointments

SUSIE SWATT, Consultant to SENATOR JOHNSON

TIM SHELLEY, Consultant to SENATOR KARNETTE

CHRIS BURNS, Consultant to SENATOR KNIGHT

RYAN SHERMAN, Consultant to SENATOR ROMERO

ALSO PRESENT

EDWARD S. ALAMEIDA, JR., Director
Department of Corrections

ROBERT PRESLEY, Secretary
Youth and Adult Correctional Agency

ROY MABRY
Association of Black Correctional Workers

SUZANNA AGUILERA-MARRERO, President
Chicano Correctional Workers Association



1 ROD MULLEN, President and Chief Executive Officer
2 Amity Foundation

3 WILLIAM GARCIA
4 American GI Forum; CAFÉ de California; American Mexican War
5 Mothers

6 DARSHAN SINGH, Vice Chairman
7 Prison Industry Authority

8 MARC BAUTISTA
9 SEIU 1000

10 JESSE L. GARCIA, Vice President
11 State Chapter, National Latino Peace Officers Association

12 DAVE ARMENDARIZ
13 National Latino Peace Officers Association

14 RICHARD TATUM, State President
15 California Correctional Supervisors Organization

16 GORDON D. BORANIAN
17 American GI Forum/Educator

18 B. CAYENNE BIRD
19 UNION (United for No Injustice, Oppression or Neglect)

20 LANIE VANNATTER
21 Families of Prisoners, Prisoners of Davis, VIP

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P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

CHAIRMAN BURTON: Governor's appointee to be heard today, Edward Alameida, Jr., Director of Corrections.

SECRETARY PRESLEY: Mr. Chairman, I just wanted to take a second and introduce Mr. Alameida, in case you haven't had a chance to meet him.

He's a fine man doing a very, very tough and important job, and highly, I think, qualified. He was appointed by the Governor several months ago, and we're working on a number of important issues, making, hopefully, some progress.

I'd like to commend him to you and hope you'll support his confirmation.

CHAIRMAN BURTON: Thank you, Senator Presley. Mr. Alameida.

MR. ALAMEIDA: Senator, if it pleases the Committee, I'd like to read a statement.

CHAIRMAN BURTON: Go ahead.

MR. ALAMEIDA: Good afternoon, Mr. Chairman and Members of the Senate Rules Committee.

I wish to thank you for the opportunity to appear before you and give an overall picture of how I view the California Department of Corrections, and some of the challenges and opportunities we face. In facing them, I look forward to working with you, with the Governor, and with other criminal justice agencies throughout the state.

Since my appointment in September of last year, I have taken a comprehensive look at where the Department stands

1 today. I have visited almost all of our prisons and parole
2 regions. That effort is ongoing, but I have identified many of
3 the major issues facing the Department.

4 Before I address them, however, I must share with
5 you that the Department is staffed by more than 48,000 of the
6 most dedicated, hard working, and caring state employees. I
7 have worked in CDC in many capacities for more than 29 years.
8 Throughout that time, I have witnessed extraordinary commitment,
9 creativity, and energy on the part of the vast majority of our
10 staff. It is an honor to be asked to lead them, to work with
11 them in developing creative approaches to the issues we now
12 face.

13 The most serious of these issues is our ongoing
14 structural budget deficiency. This is something we've been
15 struggling with for the past several years. It directly affects
16 the core of the CDC program operations and our ability to
17 manage. It is critical that we address this issue and resolve
18 it, and I hope we can work constructively together to do this.

19 It also important for us to have confidence in
20 our management information systems. Many of our automated
21 systems originated in the 1970s and '80s, and are archaic and
22 antiquated, and wholly inadequate for managing our 275,000-plus
23 inmates and parolees, much less positioning ourselves to
24 effectively conduct business in the 21st Century. We must
25 develop a strategy and build the infrastructure and systems
26 required for future operations.

27 Health care is a major, major issue for the
28 community, and is equally or perhaps more challenging within our

1 system. Providing appropriate health care to our inmates and
2 ensuring proper access to care will be a top priority of
3 everyone within this Department. My goal, as optimistic as it
4 may sound, is to move the Department from its present reactive
5 mode to one of being proactive. I look to the Department to
6 take a leadership role in this area, and to someday provide
7 health care free of court supervision.

8 The vast majority of our inmates want to
9 participate in work, school, recreation, and self-help
10 programs. There are a limited few who are prone to violence,
11 criminality, or gang activities in prison. Controlling and
12 reducing prison violence is of the utmost importance. We must
13 have the appropriate housing for our most violent inmates to
14 protect our staff and inmates, so that the majority of our
15 inmates can participate in education and programming.

16 We are evaluating new ways for the Department to
17 create a continuum of housing and programing incentives to
18 encourage good behavior and to deal fairly with the predatory,
19 disruptive minority, holding them accountable for their actions.

20 We also need to renew our efforts to reintegrate
21 offenders into society. We have made some progress in reducing
22 caseloads for parole agents, and experienced some outstanding
23 successes in local programs. I would like to see an expanded,
24 focused, and coordinated effort between our institutions,
25 parole, and health care services divisions to connect parolees
26 with education, drug treatment, health care, and job training in
27 order to achieve a seamless reintegration of parolees back into
28 the community.

1 It is absolutely critical we develop our future
2 leadership. Improved training is an essential ingredient in
3 providing staff with the tools they need to do their work.
4 Limited resources have impeded the Department's ability to
5 conduct training. The lack of sufficient training has, and will
6 continue to have, long-term increased costs and compliance
7 implications as a result of litigation and inconsistent
8 application of policies and procedures if not stemmed. I will
9 be emphasizing training programs as a key to a successful future
10 for the Department of Corrections.

11 Again, I would like to thank you for the
12 opportunity to address you. I want to conclude by assuring you
13 that I am always open to suggestions, ideas, and constructive
14 dialogue.

15 As an example, I recently sent you a letter
16 describing changes that I have directed be made in the
17 Department's proposed visiting regulations. These changes were
18 primarily in response to oral and written comments presented to
19 us by outside stakeholders, including the public, inmate support
20 groups, Legislators and legislative staff. I believe these
21 changes are responsive to those comments.

22 I am confident we can work together closely and
23 productively to meet the Department's challenges. Thank you
24 very much.

25 CHAIRMAN BURTON: About 30 percent of the inmates
26 who are near parole receive pre-release instructional programs.
27 What can you do to bump those numbers up, given the budgetary
28 situation?

1 MR. ALAMEIDA: Senator, we've done some things
2 already, and I would like to articulate what those are.

3 Over the course of the last year, we have
4 standardized the curriculum for pre-release in our
5 institutions. At the same time, we have changed the calendar
6 process by which we provide for this pre-release training
7 program. We had a lot of down time between one curriculum and
8 the other beginning, and the other ending. So what we did was,
9 we standardized the approach to when we provide these classes to
10 maximize the use of the space, as well as to maximize the
11 opportunity for inmates --

12 CHAIRMAN BURTON: What are the classes?

13 MR. ALAMEIDA: There are three-week classes or
14 six-week classes performed in our institutions.

15 CHAIRMAN BURTON: And I'm asking what's the
16 class? What's the program?

17 MR. ALAMEIDA: The program involves making the
18 inmate aware of the various benefits that might be available to
19 them through the Social Security Administration or through the
20 Veterans Administration.

21 We have training provided to the inmates as it
22 relates to their ability to manage their, for example, their
23 checking account and their resources.

24 We have training that is provided in the area of
25 being able to develop a resume and an application process. We
26 have training as it relates to doing interviews for purposes of
27 job opportunities that might be out there.

28 We have speakers that come in from various

1 organizations. We deal with the Department of Motor Vehicles as
2 it relates to trying to get vehicle permits for the inmates as
3 they are paroling so that they can have the opportunity to
4 transport themselves from one location to another.

5 Essentially, that's the basis of our program. I
6 would argue that the basis of that program is not sufficient.
7 The program that is provided lasts three weeks prior to you
8 going back out into the community. And to do that at that point
9 in time, I don't think does a service to the inmates as it
10 relates to reintegration back into the community.

11 We are exploring some different models. One
12 model that we're looking at presently -- and again, in tandem
13 with your question, it's not to increase the resource needs of
14 the Department of Corrections -- we're looking at a model that
15 brings Institutions Division and Paroles together from the
16 perspective that, perhaps, the last four to six months prior to
17 the parolee going out into the community, we bring parole agents
18 into the community and focus our attention during that period of
19 time on their reintegration back into the community. It's
20 hopeful that this might benefit us, and might provide for more
21 success when the inmate goes back out into the community.

22 CHAIRMAN BURTON: Do you screen the potential
23 parolees before you put them in the program, or does everybody
24 get to learn how to balance a checkbook, whether they know how
25 to do it or not?

26 MR. ALAMEIDA: Senator, I think you've probably
27 hit on the crux of the problem for us to really make and garner
28 some major successes in this area.

1 The program now is voluntary and not mandatory.
2 So, the inmate gives us their indication that they would like to
3 participate or not.

4 And so, from the perspective that it's not
5 mandatory, and I think that's one of the major changes that we
6 need to make in this program to really have some great benefits.

7 CHAIRMAN BURTON: But even if it's voluntary, do
8 you assess? I mean, it would be kind of a waste of time to
9 teach somebody how to balance a checkbook who might be in there
10 for embezzlement.

11 Do you know what I mean.

12 [Laughter.]

13 MR. ALAMEIDA: He might have a pretty good idea,
14 I guess.

15 CHAIRMAN BURTON: They could teach us how to do
16 it.

17 Do they screen them so that they see what it is
18 that they might need when they get out, as opposed to just one
19 size fits all?

20 MR. ALAMEIDA: No, Senator. We don't do a good
21 job at that. We do have a one size fits all.

22 CHAIRMAN BURTON: That makes no sense, especially
23 if you're short on resources, short on whatever, it doesn't make
24 any sense.

25 In other words, you ought to find out if they
26 know how to balance a checkbook, or if they know something else
27 that, you know, I mean, you could probably figure out by just
28 looking at -- I was going to call it a resume -- but whatever

1 you have about kids.

2 SENATOR KNIGHT: Rap sheet.

3 CHAIRMAN BURTON: Well, I wasn't going to say
4 that because a rap sheet just tells you what they did.

5 But whether they are high school grads, college
6 grads, this, that, and the other thing, so you know what they
7 need.

8 Also, if you're putting somebody through
9 something that they say, "What's this stuff? I know this
10 already," they're going to tune out to the other stuff, and it's
11 a very unsuccessful deal.

12 MR. ALAMEIDA: I would tend to agree with that.

13 CHAIRMAN BURTON: You're in a position to do
14 something about it.

15 You mentioned that you were kind of trying to
16 train. What are you doing about helping train wardens and
17 deputy wardens?

18 I think under the latest MOU, they all get to
19 retire at age of 25 at 200 percent pay.

20 [Laughter.]

21 MR. ALAMEIDA: Senator, for us to develop an
22 appropriate curriculum for wardens and chief deputy wardens, if
23 you follow the process, it requires us to do a job analysis.
24 And it's a very arduous task to do that, and we're in the
25 process of actually doing a job analysis for chief deputy
26 wardens and wardens.

27 What that will give us is the knowledge, skills,
28 and abilities that are indigenous to performing in those

1 positions, from which then will be generated curriculum.

2 While we are going through the process of making
3 that happen, the training that we are providing presently in our
4 system is our management training program. We also have our
5 leadership institute.

6 We are working with the community boards and
7 colleges on a pilot basis to develop a public safety leadership
8 program, that we have sent a number of our wardens and executive
9 staff to, that are students and who will eventually come back
10 and provide instruction to the rest of the Department.

11 We are working with the National Institute of
12 Corrections, not as much as sending staff to attend their
13 training there, but more recently, having them come to the
14 state of California and provide training here to a larger group
15 of our staff. We get a better bang for our buck from the
16 perspective that we are able to reach out and touch a whole lot
17 more folks than sending a select few to the National Institute
18 of Corrections in Colorado.

19 Recently we sent some staff there. There are
20 some courses there that are provided for new wardens. And as an
21 outgrowth of that course, we recently received in the mail about
22 a week ago a resource guide to newly appointed wardens, which we
23 have distributed all of our wardens and will be speaking to at
24 our future wardens meeting.

25 This has some -- this raises some concern to me,
26 especially from the perspective of -- and I divert for a moment.
27 When I received my copy, no longer being a warden, having not
28 had it when I was a warden, I took a bit of time to ransack my

1 office to see if there was a resource guide for new directors,
2 and I couldn't find one. And there's no training, either. So,
3 I guess I'm just out there.

4 CHAIRMAN BURTON: There's several times been a
5 bill floating around -- I have no idea who sponsored it -- but
6 almost every warden had to have at least five years' experience
7 as a correctional officer. I don't know whose idea that was.

8 Assuming people want to do that, do they have
9 courses? You've gone through that, but I mean, what's the
10 training to be a warden? You have to be appointed and
11 confirmed, and that's really it? Just idle curiosity. Don't
12 need a long explanation.

13 Are there criteria to be a warden, or is it just
14 like the Governor could appoint, and if somebody gets 21 votes
15 or confirmed?

16 MR. ALAMEIDA: Theoretically, the Governor could
17 appoint, and if someone gets 21 votes, then you could be a
18 warden, Senator.

19 CHAIRMAN BURTON: I don't think they do that.

20 MR. ALAMEIDA: No, we don't.

21 CHAIRMAN BURTON: I don't think that was in the
22 MOU.

23 SENATOR KARNETTE: Senator Burton, I have a
24 question.

25 Do you mean they have to at least be an
26 assistant; don't they?

27 CHAIRMAN BURTON: No.

28 MR. ALAMEIDA: No.

1 SENATOR KARNETTE: They can be anybody?

2 CHAIRMAN BURTON: Well, you might have somebody
3 from another area. In fact, I think what's his name, the head
4 of Corrections, Gomez, came out of actually Social Services.

5 In fact, I'll just say this, that the wardens
6 that at least I think most of the Members of the Committee found
7 to be the most impressive actually have been the female wardens.

8 MR. ALAMEIDA: Very much so.

9 CHAIRMAN BURTON: Which is kind of interesting.

10 I just want to get a couple things on health.
11 We've been told that the way to get in for dental care is like
12 six to twelve months.

13 MR. ALAMEIDA: I wouldn't discount that
14 necessarily, Senator. I think that the Department --

15 CHAIRMAN BURTON: That's because of what?

16 MR. ALAMEIDA: I think we've concentrated our
17 efforts on mental health care and more recently on medical
18 services in terms of patient care and access.

19 I would be remiss if I didn't say to this
20 Committee that probably the next biggest challenge we have is
21 dental care. And I believe that we're going to be trying to go
22 down a road, and I'm hopeful that we're going to go down a road,
23 that puts us in front of the curve in this particular area, as
24 opposed to behind it, where we are subjected to court
25 intervention as it relates to our provisal [sic] of care.

26 To that end, and the Committee Members may be
27 aware of this, I've directed Health Care Services to reestablish
28 the Chief Dentist position in health care to provide oversight

1 to the Department of Corrections in this particular arena.

2 We've also just received the report from the
3 dental task group that we're reviewing. We just got it about a
4 week ago. And we're going to be establishing a dental task
5 group to develop policies and procedures, not dissimilar to the
6 way we approach Plata, as it relates to the provisal [sic] of
7 medical services for the inmate population.

8 I am hopeful that these steps, at least
9 initially, will put us in the right perspective in terms of
10 taking the right footing towards solving the dental problems
11 that we have in the Department of Corrections, and we do have
12 problems in that area, Senator.

13 CHAIRMAN BURTON: I guess when you end up getting
14 budget cuts in these areas, what priorities does the health,
15 whether it's dental health, physical health, or mental health,
16 have?

17 MR. ALAMEIDA: Over the last two years that I've
18 been up in Headquarters, Senator, when we've had budget cuts,
19 health care services have been exempted, and that's dental as
20 well as medical services or mental health services. So, we've
21 taken those cuts from the other areas of our department.

22 CHAIRMAN BURTON: I guess even without the cuts,
23 we've had lawsuits. With the cuts, it would have been more?

24 MR. ALAMEIDA: Yes, sir.

25 CHAIRMAN BURTON: Last one of the 602 Forms, that
26 they're not identified or numbered, how can you track inmate
27 appeals through the system to see whether or not they had a
28 grievance, and the grievance is either legitimate or not

1 legitimate, and has been dealt with up, down, and sideways?

2 MR. ALAMEIDA: My recollection of our tracking
3 system, and we do have a computer tracking system for appeals,
4 we track the inmate appeals by name and by the inmate's number.
5 And at the same time, if I'm not mistaken, the institutions give
6 each appeal a log number. That log number is another basis by
7 which we track the appeal.

8 So, I think from those three perspectives, I
9 think we have the capability to track appeals based on those
10 three fields. So I'm not sure if there's necessarily a problem
11 there, Senator.

12 And we do have appeals coordinators at each of
13 our institutions, for each of the nonhealth care services arena
14 and for the health care service arena as well. So, I think we
15 have the system in place to deal with inmate appeals.

16 I know we've had a backlog in that arena, and I
17 would be pleased to report, because of a lot of staff work in
18 this particular area, that we are current as it relates to our
19 third level appeals for the first time in a while.

20 CHAIRMAN BURTON: Have you had a chance to look
21 and see what the May Revise did to you?

22 MR. ALAMEIDA: Senator, I apologize. I know some
23 of the aspects of the May Revise.

24 CHAIRMAN BURTON: We'll catch that.

25 Did you have any input? If you had to take cuts,
26 what made sense?

27 MR. ALAMEIDA: Yes, I did, Senator.

28 CHAIRMAN BURTON: It's better than we had.

1 [Laughter.]

2 CHAIRMAN BURTON: Although, I guess ultimately,
3 we get to decide; don't we?

4 MR. ALAMEIDA: Yes, you do, Senator.

5 [Laughter.]

6 CHAIRMAN BURTON: Senator Knight.

7 SENATOR KNIGHT: That's right; you do.

8 Thank you, Mr. Chairman.

9 Do you have a program at Ironwood, a veterans
10 organization, or some such program? Can you enlighten me on
11 that?

12 MR. ALAMEIDA: Senator, I'm not fully familiar
13 with that program. I'm familiar with some other of our
14 institutions.

15 Are you talking about for the inmate population?

16 SENATOR KNIGHT: Yes.

17 MR. ALAMEIDA: We have a number of programs where
18 we have our Veterans of Foreign Wars programs. It's not
19 dissimilar from a self-help group, where inmates are either
20 lifer group or a veterans group meet. It's an opportunity for
21 inmates to share experiences and exposures to --

22 SENATOR KNIGHT: This one seems to be a
23 significant program, over and above, I think, some of the
24 others.

25 MR. ALAMEIDA: Senator, I'm not fully familiar
26 with that program. I'd have to look at it.

27 SENATOR KNIGHT: Okay.

28 The private prison at Baker. You're familiar

1 with that one?

2 MR. ALAMEIDA: Yes, I am, Senator.

3 SENATOR KNIGHT: And the proposals to shut those
4 private prisons down?

5 MR. ALAMEIDA: Yes, I am, Senator.

6 SENATOR KNIGHT: Do you go along with that?

7 MR. ALAMEIDA: Senator, at this point, as the
8 Director of Corrections, and given the fact that the Governor's
9 budget doesn't give me any authority to contract for those
10 enterprises beyond June 30th, I don't have any means of
11 continuing the contract for those.

12 SENATOR KNIGHT: Did the budget cut those out?

13 MR. ALAMEIDA: Yes, they did, Senator.

14 SENATOR KNIGHT: So, you're going to close the
15 one at Baker.

16 What is the impact that'll very on Baker?

17 MR. ALAMEIDA: I think Senator Burton probably
18 said it very aptly, that you get to decide as it relates to the
19 review of the budget.

20 SENATOR KNIGHT: No, he does.

21 [Laughter.]

22 CHAIRMAN BURTON: If you ever thought about
23 voting for a budget, we might listen to what you said.

24 [Laughter.]

25 MR. ALAMEIDA: There was an action taken on the
26 Senate side of the house to restore those facilities back into
27 the budget process. I'm sure that that will be part of the
28 discussions in terms of the final outcome of that.

1 SENATOR KNIGHT: Thank you.

2 CHAIRMAN BURTON: Senator Romero.

3 SENATOR ROMERO: Thank you.

4 Let me just ask you, I hope they're not true, but
5 I have heard some rumors circulating about a possible closure of
6 the Southern California facility for women, the California
7 Institution for Women.

8 Is there any merit to these rumors at all?

9 MR. ALAMEIDA: Senator, I believe those emanated
10 out of the Legislative Analyst's Office, who were asking for us
11 to give our input as to what the savings would be to the State
12 of California were we to do that.

13 As the Director of Corrections, there are a host
14 of programs there, and a host of issues that, from my
15 perspective, doesn't make that a plausible alternative as it
16 relates to closure. So, I am not an advocate of that.

17 As I understand it, there's nothing in the
18 process now that would propose that.

19 SENATOR ROMERO: Terrific.

20 Let me just ask if you can tell us a little bit
21 about the status of the concerns we've had in the Legislature
22 about phone calls, the policies for inmate phone calling, and
23 the gauging, essentially, of family members and inmates who
24 attempt to keep in contact with family members.

25 What is your position on this, and what are you
26 doing to rectify this concern?

27 MR. ALAMEIDA: If my information and my
28 understanding is correct, the Department of General Services is

1 the agency that's managing this process. My understanding is
2 that they recently negotiated an agreement that they signed back
3 in February. As a result of that agreement, if I understand it
4 correctly, it's supposed to be implemented in June. And at that
5 point in time, it would reduce the charges to the users by 25
6 percent.

7 At the same time, General Services informs me
8 that this is a bridging contract, and that the intent of this
9 bridging contract is to provide services for a period of time
10 while we develop a different system. What's been touted most is
11 the PIN debit system, that once it rolls out, with the
12 expectation being sometime in the latter part of '04, that it
13 would further reduce charges to the users of the telephone
14 service.

15 CHAIRMAN BURTON: Can I ask a question? In fact,
16 I think we've got some GSA people coming up at some time before
17 us, but if I call you at home collect, it costs me something.
18 If somebody in prison calls me at home collect, it costs like
19 three times something.

20 I mean, it makes no sense to me. A phone call's
21 a phone call, unless we cut a real sweet deal with the people.
22 I guess they aren't Pac. Bell phones or something else.

23 MR. ALAMEIDA: In response to that, Senator, my
24 personal opinion is that I don't believe that we should be
25 charging exorbitant prices for similar types of services.

26 SENATOR ROMERO: That's precisely my point as
27 well, that we shouldn't be doing this. I think there is a real
28 need because, again, especially once the inmate leaves the

1 institution, there is going to be a community that one is going
2 to go back into, and I think we want to encourage, and I would
3 hope encourage, that the inmates have contact and opportunity.
4 If we have these kinds of pricing policies, that really becomes
5 problematic, especially when we take a look at so much of the
6 demographics of who is incarcerated.

7 Just one last question. I heard from the
8 California Correctional Psychologists, they're very interested
9 in having a management position, a Chief Psychologist, to have
10 policy input.

11 What is your position on this?

12 MR. ALAMEIDA: I met with them sometime ago after
13 I was appointed to this position, and they expressed that to me
14 as well.

15 I told them that I would look into that. In
16 looking into it, it's a little bit more of an issue than I
17 thought it was originally. Right now, our structure in our
18 organization has the psychologists reporting through a Chief
19 Psychologist, or a senior psychologist to a Chief Psychiatrist.

20 It would require us to reorganize how we do
21 business in our health care arena throughout the state. And in
22 so doing, it would also require us to seek the approval of DPA,
23 and in this instance, because it would be changing a
24 classification to a management classification, to go before PERB
25 in order to get their approval as well.

26 That hasn't deterred our looking at it, but we
27 just haven't got around to looking at all facets of it and
28 flushing those out yet, Senator.

1 SENATOR ROMERO: Thank you.

2 CHAIRMAN BURTON: Senator Karnette.

3 SENATOR KARNETTE: The Inspector General found
4 that Employee Relations Officers sometimes aren't provided with
5 adequate training.

6 I was wondering, who evaluates the employees that
7 are in the prison with the inmates?

8 MR. ALAMEIDA: If we're speaking about the
9 Employee Relations Officer, I would subscribe to the Inspector
10 General's Report, that we don't do a good job of training. And
11 in my opening comments, I made a point --

12 SENATOR KARNETTE: But I'm not talking about a
13 program of training. I'm talking about if there's a problem,
14 and you know there's a problem somewhere, and a person needs
15 some special training, like staff development or something, and
16 union probably negotiates that type of thing, I would think.

17 MR. ALAMEIDA: No, the Employee Relations Officer
18 is a supervisory class in most of our institutions. They're
19 generally a lieutenant.

20 The training -- and that person usually reports
21 directly to the Chief Deputy Warden or the Warden.

22 The training that we provide to them is not
23 prescribed by the MOU, and it's incumbent upon the Chief Deputy
24 and the Warden to seek out appropriate training.

25 DPA provides a great deal of training, as does
26 the University of California.

27 SENATOR KARNETTE: But who decides who needs it?

28 MR. ALAMEIDA: I think, to be honest with you, we

1 should decide as a department what is required of all of our
2 employees as it relates to training, and we don't do that at the
3 moment.

4 So, in terms of the IG's Report, they are right
5 about we are remiss in that particular area.

6 SENATOR KARNETTE: When people are hired on or
7 become employees to work with the inmates in whatever capacity,
8 they go through some kind of training then, I would think.

9 MR. ALAMEIDA: If you're talking about a
10 correctional officer, yes, Senator, they do. They go through a
11 16-week academy.

12 SENATOR KARNETTE: Then, if they have problems,
13 though, there's no person that evaluates them at any time? They
14 just have to have serious problems?

15 MR. ALAMEIDA: We have a performance report
16 process that is issued to employees on an annual basis that is
17 by the supervisor of that employee that assesses their
18 performance.

19 I'm not sure if I'm answering your question.

20 SENATOR KARNETTE: I think you are.

21 What I'm concerned about is that sometimes people
22 don't fit into the slot they're in very well, and perhaps with a
23 little help, or maybe moving to another slot, things would
24 improve. I mean, most institutions, I think, that happens.
25 There's some people don't fit into the slot they're in. And if
26 they're moved, things get along better.

27 The union doesn't negotiate anything like that?
28 And people get extra credit or salary points, or something, for

1 taking special classes?

2 MR. ALAMEIDA: In the union agreement, there is a
3 section that provides for additional compensation for employees
4 who go out and receive additional education, either their AA
5 Degree or their BS or BA Degree.

6 There is a prescribed course of training in the
7 union agreement for the rank and file members as part of the 7-K
8 Program, and there's 52 hours of training that's provided to
9 those employees.

10 To the extent that we find employees that aren't
11 capable of doing the job or duties assigned, there are methods
12 by which we can move the employee to other locations where they
13 might better benefit themselves and the organization.

14 SENATOR KARNETTE: I have one other question.

15 What about these voluntary groups that come in to
16 prisons to do various things? I don't know exactly what they
17 do, but I know there are a lot of groups.

18 How do you evaluate them? Do you have programs
19 for them? Like certain charitable groups want to help out; how
20 do they go about that?

21 MR. ALAMEIDA: Most of those programs are under
22 the auspices of our Community Resources Manager in the
23 institution, and our Community Resources in Headquarters.

24 For the most part, our volunteers are generally
25 in the religious area for our Protestant, Catholic, Jewish,
26 Muslim, and other types of religious services.

27 We also have volunteers that come into the
28 educational areas, and other areas of our facility to assist us

1 with those programs. Generally, the individuals within the
2 area, for example like the chaplain, may come to us and say, "I
3 have found a volunteer who'd like to come in and assist me with
4 my program." What we do is, we check the individual out to make
5 sure that they're able to come into the prison, there isn't any
6 history that would prevent them from doing so.

7 If they do decide to come in, we put them through
8 a training course that gives them similar orientation as we do
9 our employees that come to the prison so they know how to act,
10 and how to respond, and how to deal with circumstances they
11 might be faced with.

12 As a general rule, we don't provide them the
13 opportunity to be solely alone in terms of what they may be
14 doing when they're in the prison setting.

15 SENATOR KARNETTE: One last question.

16 Who actually is responsible for that training?
17 Are you ultimately responsible?

18 MR. ALAMEIDA: I'm responsible for everything
19 that happens in the Department of Corrections, Senator.

20 SENATOR KARNETTE: Who actually says, this is the
21 way you behave under certain circumstances?

22 MR. ALAMEIDA: That's part of the orientation
23 process, and we do have a prescribed curriculum out there that
24 we provide to those individuals. And it's usually provided
25 under the auspices of our in-service training manager at each of
26 the institutions. But its oversight is provided by our
27 Community Resources Unit in Headquarters.

28 SENATOR KARNETTE: Are educational people

1 involved in that, like teachers?

2 MR. ALAMEIDA: They may be.

3 SENATOR KARNETTE: Because I would think they
4 would know a little bit about that kind of thing.

5 Thank you.

6 CHAIRMAN BURTON: How are they doing with the
7 chemical dependency and alcoholism? Does it come from the top,
8 and you tell each institution they have to do so much?

9 I can't remember half the time whether I'm
10 talking to Corrections or the CYA, but it was like, we don't
11 have a lot of room, and we don't have a lot of money. And
12 basically, you know, we have people who come in from the outside
13 and do a 12-step program in the cafeteria, or anywhere, any
14 time, any day or night.

15 MR. ALAMEIDA: We still have in Corrections our
16 self-help groups, or our self-help sponsored groups for
17 Narcotics Anonymous and Alcoholics Anonymous, which I think may
18 be what you're referring to, Senator. Those exist at every one
19 of our institutions.

20 Although we've limited our self-help groups over
21 the years, we've maintained those along with a number of
22 other --

23 CHAIRMAN BURTON: Why do you limit them? What do
24 you mean, you limit them?

25 MR. ALAMEIDA: We used to have whole host of
26 self-help opportunities for inmates. In the course of time, as
27 the budget process has affected us, some of those self-help
28 groups were no longer retained. We retained the core groups

1 such as Alcoholics Anonymous and Narcotics Anonymous.

2 CHAIRMAN BURTON: How about anger management?

3 MR. ALAMEIDA: That's provided as part of the
4 curriculum in our Education Department, part of what we do in
5 pre-release and reentry.

6 CHAIRMAN BURTON: So, three weeks before they get
7 out, you get somebody that's mad at the world since he's eight
8 years old.

9 MR. ALAMEIDA: That's why I said I don't think
10 this program is very effective, Senator, the way it's
11 structured.

12 CHAIRMAN BURTON: You can have anger management
13 programs almost the same way you can have AA and NA. I mean,
14 there's people that, you know, have gone through it themselves,
15 and are inmates themselves, that are doing it. Especially, I
16 think, if those who are in, say, domestic violence and things
17 like that, because most of the domestic violence workshops, for
18 the want of a better word, are facilitated or whatever by former
19 batterers.

20 I was down at one of the county jails in L.A.
21 where, I think, twice a week, it was basically for batterers,
22 but it almost seems anger management, where the class was about
23 this big.

24 I mean, they don't do a hell of a lot else when
25 they're in prison that I know about. You've got some job
26 opportunities, you've got some this.

27 But I would think that within the final six
28 months or whatever, and then also maybe as either helpful with

1 good time credits, or something, that people do that.

2 It's like with the CYA, they used put young kids
3 in anger management, and they'd have to wait like seven months
4 to get into it. By the time they got in it, they were so God
5 damn mad, they wanted to hit the counselor.

6 You don't have to respond because I think you get
7 it. But I just think that those are easy things, those are
8 cheap things. You know, there's probably a fair amount of
9 people that are inmates that really would feel good about doing
10 something constructive, helping the others, rather than playing
11 chess, or whatever.

12 I've five quick questions that you can give quick
13 answers to, by Senator Polanco.

14 By the way, how is that physical fitness thing
15 working out? Are all those correctional guys physically fit?
16 Take an exam once, and then if you aren't dead, you're
17 physically fit; right? You all are good.

18 The IG found, quote, "Needless complexity of the
19 employee disciplinary process causes, which then delays your
20 ability to take action as a result of such a pain in the neck,"
21 these are my words, that like 43 percent of the cases aren't
22 even pursued because the time limit expires.

23 Let me just give you all five, because they're
24 all kind of the same thing, then you can respond.

25 "The IG finds that there's no clear guidelines
26 for defining the one-year period of investigating alleged
27 misconduct and imposing disciplinary action."

28 I mean, are you thinking about guidelines? This,

1 again, is all the IG stuff.

2 "Employee Relation Officers are not provided with
3 adequate training." This is back to what Senator Karnette said,
4 so they don't quite know how to handle the disciplinary stuff.

5 Then, "Most of the employee disciplinary actions
6 proceed all the way through settlement and State Personnel Board
7 hearings without advice or assistance from legal staff."

8 I don't know if they're talking management. I
9 would assume that the union has their attorneys there. So, I'm
10 not quite sure who they're talking about here, whether or not
11 the Department's got staff.

12 Then, "CDC has not established policies and
13 procedures governing the settlement of employee disciplinary
14 actions, and no means of monitoring the evaluating settlement
15 process."

16 Therefore, just in a few minutes, what are you
17 doing in the rare cases of employee disciplinary actions, or the
18 necessity for that?

19 MR. ALAMEIDA: Senator, when I first came on
20 board as the Director of Corrections, that was one of the areas
21 that I identified we needed to focus on. And we've made some
22 major strides in that area.

23 We have a disciplinary tracking system which we
24 put into place, and it is in place now, that incorporates our
25 Legal Department, along with our investigative areas of our
26 institutions in Headquarters, as well as our Employee Relations
27 Officers that track from the culmination of a particular
28 investigation to its closure. And since the implementation of

1 that tracking system, we haven't been in a situation where we
2 haven't been able to take an adverse action where it's warranted
3 and missed the time constraints.

4 At the same time, under the direction of the
5 Chief Deputy for Support in our Department of Corrections, we've
6 initiated a task group to look at a number of the issues that
7 are mentioned in the IG Report, such as the training that
8 Senator Karnette spoke about for the EROs, our policies,
9 procedures, and guidelines as it relates to settlements, and a
10 host of other things.

11 This is an issue that is not only shared by the
12 Inspector General's Office; it's shared by the court in Madrid,
13 as it relates to the management of our cases in Pelican Bay.
14 So, we're responding not only as it relates to IG, but through
15 the court. And we are in the process of developing our
16 corrective action plan and submitting it to both.

17 We've had initial dialogue, and they seem to be
18 receptive to our approach at this point in time.

19 CHAIRMAN BURTON: Do you have any family with
20 you?

21 MR. ALAMEIDA: No, Senator. My wife's at
22 work.

23 CHAIRMAN BURTON: One of the things, among
24 others, but I do want to commend you for responding to the
25 public comments on those proposed regulations. From whence they
26 came, I don't know. But I think the fact that several of the
27 egregious ones were eliminated, and I think that the others were
28 modified, they solve whatever purpose they were supposed to

1 solve. They sort of make sense, and I don't think they're
2 overly burdensome.

3 Where did they come from originally? Did you
4 inherit those?

5 MR. ALAMEIDA: Well, I can't say I fully
6 inherited them. They came out of Institutions Division, and I
7 was a member of Institutions Division.

8 But I think in the final analysis, I think we're
9 on the right track now.

10 CHAIRMAN BURTON: Witnesses in support.

11 MR. MABRY: Good afternoon, Senator Burton and
12 Rules Committee Members, and the appointments secretary,
13 Sabelhaus.

14 My name is Roy Mabry, representing the
15 Association of Black Correctional Workers. I'm here fully in
16 support for confirmation of Director Alameida.

17 Also, I have several of my board members.

18 CHAIRMAN BURTON: They can stand.

19 MR. MABRY: They'll be happy, because I'm one
20 more term in office, and I'm going to be turning this over to
21 somebody else.

22 CHAIRMAN BURTON: As long as I'm here, do you
23 want me to ask, is yours a full-time job, or do you have to do
24 duty in the prison, too?

25 MR. MABRY: You've got to do both.

26 CHAIRMAN BURTON: Start wearing a hat, and you
27 won't have to do that.

28 [Laughter.]

1 CHAIRMAN BURTON: Why don't you have your board
2 members stand, please, so we know who we're going to be dealing
3 with after we say good-bye to you.

4 MR. MABRY: That's still four years to go.

5 CHAIRMAN BURTON: Thank you very much.

6 MR. MABRY: Thank you.

7 Director Alameida, congratulations, up on the
8 Senators' blessings.

9 CHAIRMAN BURTON: Next witness in support,
10 briefly please.

11 MS. AGUILLERA-MARRERO: Good afternoon. Suzanna
12 Aguilera-Marrero. They call me Sam for short, and I'm the
13 Association President for the Chicano Correctional Workers
14 Association.

15 First of all, let me thank you for the privilege
16 of coming before you, such a distinguish panel.

17 Our organization, all 2400 members, voted
18 unanimously at our last Board of Directors to support
19 Mr. Alameida. We've look at his resume, and we've had many
20 members that have worked for him at the institutional level.
21 And we're honored to be here today in his support, and hope that
22 you do the same.

23 Thank you for your time.

24 CHAIRMAN BURTON: Thank you.

25 Next.

26 MR. MULLEN: My name is Rod Mullen. I'm the
27 President and Chief Executive Office of Amity Foundation. We're
28 a service provider. We've been providing in-prison substance

1 abuse treatment services for the Department of Corrections for
2 12 years.

3 I think that the position that Mr. Alameida has
4 requires some very unusual talents. It requires extensive
5 knowledge of CDC. It requires a tremendous ability to manage,
6 because this is a gigantic department, as you all know, and it
7 also really requires tremendous leadership. Management doesn't
8 necessarily mean leadership, as we know. I'm really convinced,
9 after meeting with the Director, both as a member of a provider
10 group and with him individually, that we are fortunate in having
11 him in that position. And I think he's going to do a tremendous
12 job for the Department of Corrections and for the State of
13 California.

14 I think one of the things that's happened in the
15 last, you know, 10, 15 years is, we have some evidence that one
16 of the best ways of really ensuring public safety is to provide
17 substance abuse services within the institutions with
18 after-care. Mr. Alameida fully supports that, and it's very
19 critical that at the top of this organization, there is that
20 kind of support, because in many cases, you know, the Department
21 of Corrections is really sort of a misnomer. It doesn't really
22 correct. It houses. It provides short-term public safety. But
23 when 66 percent of our folks come back, of our new admissions to
24 Corrections are really not new admissions; they're coming there
25 for the second, or third, or fourth time, to really get
26 long-term public safety, we really need to correct. And that
27 means we need to provide these intensive services.

28 CHAIRMAN BURTON: You're in support?

1 MR. MULLEN: I am very much in support.

2 Thank you very much.

3 CHAIRMAN BURTON: Next.

4 MR. GARCIA: Mr. Chairman, Members of the Senate
5 Rules Committee, my name is Bill Garcia. I'm the State Advisor
6 for the American GI Forum.

7 The GI Forum is a state and national
8 organization. We have members throughout various chapters
9 across the country.

10 Our membership is very familiar with the
11 important work that this Committee does. We have a lot of
12 respect for you and your Committee. We do not take lightly
13 coming here and testifying, either for or against an
14 appointment. At times, some folks with dubious backgrounds
15 squeak past this Committee, but very rarely. And when they do,
16 I'm sure you people identify them and take care of the problem.

17 I'm here today to testify not only for the
18 American GI Forum, but also for the American Mexican War
19 Mothers. The President asked me to speak. She could not be
20 here; she had a doctor's appointment. And also for CAFE de
21 California. It's an employee organization, statewide, and the
22 President asked me to speak on his behalf. He's tied up in
23 Budget Committee having to do with the Oracle problem. And so,
24 I said I would do that for him.

25 We met with Mr. Alameida extensively during the
26 past couple of months. We've done some research with our folks
27 that are in the prisons, including Gordon Boranian, Norine
28 Blonian, a number of other people that we have a lot of

1 confidence in. We've not heard anything disparaging or
2 discouraging about Mr. Alameida's performance.

3 He has come up through the ranks. He's sat in
4 various chairs throughout his tenure at the Department of
5 Corrections. He brings a wealth of experience to this
6 position. I've heard nothing but good things about his
7 sensitivity and compassion for the people that he works for and
8 with.

9 In talking about veterans at the institutions, it
10 was surprising to me, Senator, that when I visited Folsom State
11 Prison, for example, they have a VFW post there that's been
12 established. Many of the veterans that get out of the military
13 become homeless, and as a result, get into other types of
14 problems and end up incarcerated. And there are so many
15 programs that could be helpful to these veterans in particular,
16 and I can think of no better way than to get mentors from the
17 veteran community to come out to those prisons and help in some
18 respect.

19 I hope that Mr. Alameida -- and I see he's taking
20 notes, so I'm sure that he'll contact us to see how we might be
21 able to assist in that venue.

22 But I just want to give, on behalf of these
23 organizations, I want to give him our wholehearted support, and
24 we hope that you folks will see fit to appoint him permanently.

25 Thank you very much.

26 CHAIRMAN BURTON: Thank you.

27 MR. SINGH: Mr. Chairman, my name is Dar Singh.
28 I am the Vice Chairman of Prison Industry Authority.

1 I don't know Mr. Alameida a long time, but since
2 he is here at Department of Corrections, and he is doing a
3 wonderful job, especially in the inmate employability program
4 and all the prison industries.

5 So, I support him wholeheartedly.

6 CHAIRMAN BURTON: Thank you, Dar.

7 Next.

8 MR. BAUTISTA: Good afternoon. My name is Marc
9 Bautista. I work at Central California Women's Facility in
10 Chowchilla, California. I'm also one of the four statewide
11 officers. I represent 92,000 state workers throughout the State
12 of California, And 13,000 of our members work for the Department
13 of Corrections.

14 I'm here today to give our support on behalf of
15 the 13,000 members whom we represent. Mr. Alameida has had an
16 opportunity, and we appreciate his time that he spent with us,
17 where he discussed some of the concerns that our members had
18 conveyed to us, and some of the issues that we addressed. And
19 he supported us, and to ensuring all of our members are treated
20 with dignity and respect, and that all are created equally -- I
21 mean treated equally. And that there would be a respect for the
22 contract that our members have with the State of California.

23 We are quite encouraged with Mr. Alameida
24 understanding the concerns of our members being held to the
25 rules of POBOR, and yet at the same time, too, not being given
26 actually some of the rights. He was committed to meet with our
27 union and discuss these issues, and, you know, hopefully
28 something that will work for both of us.

1 On that, we would like to fully support
2 Mr. Alameida, and we look forward to working together with
3 Mr. Alameida to provide the very best services for the people of
4 this great state.

5 Thank you.

6 CHAIRMAN BURTON: Thank you very much.

7 Next.

8 MR. GARCIA: Mr. Chairman, Committee Members, my
9 name is Jesse Garcia. I'm the Vice President of the National
10 Latino Peace Officers Association here in Sacramento. This is
11 David Armendariz, a member assisting me here, I think.

12 We are a national but also a statewide
13 organization. We have 25 chapters in California of law
14 enforcement professionals, a couple thousand members.

15 At our last board meeting, each chapter
16 unanimously voted to support Mr. Edward Alameida. He is a
17 person that we followed his career. He is a hard worker and a
18 person of high integrity. And for this reason, we support
19 Mr. Alameida for confirmation.

20 CHAIRMAN BURTON: Thank you very much.

21 Next.

22 MR. TATUM: Senator Burton and Members of the
23 Committee, my name is Richard Tatum. I'm the State President of
24 the California Correctional Supervisors Organization.

25 We've worked with Mr. Alameida for sometime now,
26 when he was a warden at Duel Vocational Institution and while
27 he's been the Acting Director.

28 We think that Mr. Alameida, through his

1 knowledge, his honesty, and his integrity is the type of person
2 that we want to be the Director of Corrections.

3 Thank you.

4 CHAIRMAN BURTON: Thank you.

5 Next.

6 MR. BORANIAN: Yes, my name is Gordon Boranian,
7 and I'm a member of the American GI Forum. I'm also a prison
8 educator and sometime librarian out here at New Folsom.

9 I just want to applaud Mr. Alameida on his
10 concern and sensitivity to the reentry or pre-release programs
11 and the need for more education in the institutions. This is a
12 very valuable thing.

13 Thank you.

14 CHAIRMAN BURTON: Thank you.

15 Witnesses in opposition.

16 MS. BIRD: Senator Burton and honorable Committee
17 Members, my name is Cayenne Bird. I'm Director of the UNION,
18 United for No Injustice, Oppression or Neglect.

19 You gave us, this Committee gave us, a
20 representative from CDC and the Legislature on January 6th,
21 1999. And we'd like to tell you that things are better now than
22 they were then, but not that much better.

23 And I'm representing 6,000 members who are
24 doctors, teachers, nurses, social workers, people in the helping
25 professions. I've been handling complaints from all 33 prisons
26 as a volunteer for almost five years, and also jails. And we've
27 been very active and involved in all of these issues that you've
28 been discussing here today.

1 We've taken a very strong position on the
2 visiting proposal, and we were part of that, just so you know
3 who we are.

4 I have a statement that our board has asked me to
5 present. With your permission, I'd like to read it.

6 SENATOR KNIGHT: Go ahead.

7 MS. BIRD: We would like to point out that
8 Mr. Alameida has thus far been unable to resolve some very
9 serious issues that we believe endanger the public safety. It
10 is understood, because I've known all of the large number of CDC
11 directors coming through the past few years, that he's inherited
12 a number of these problems, just so I make that very clear. But
13 the goal of everyone should be to return those we have taken
14 captive to their communities in much better shape than before
15 incarceration.

16 Prisons are, to us, the humanitarians of
17 California, it's a practice from the dark ages, and there are no
18 statistics anywhere to support them as actual solution or
19 prevention to crime. We understand that about 30 percent of the
20 prisoners are violent; the other 70 percent are nonviolent. And
21 we do understand that certain members of our society need to be
22 removed, but our California Legislature and Governor has turned
23 the human bondage industry into the largest state product, and
24 we need a responsible CDC Director.

25 Mr. Alameida has allowed the practice of cruel
26 and unusual punishment in the form of lockdown to be accepted by
27 the Legislature and everyone else as business as usual. The
28 UNION would like to emphatically state that locking people in

1 cages no larger than the size of a bathroom with another person
2 who may be mentally ill for months and years at a time is just
3 wrong. Isolation is torture, as any psychiatrist with proper
4 credentials will agree. This practice is not at all beneficial
5 to the public safety.

6 One example of a person who was tortured in
7 prison and then returned to his community such sicker was
8 Michael Bowers, who parked his truck in the Capitol's parlor.

9 I've read the cases over the years. His prison
10 history, his medical records, and that is a disgrace. I've been
11 a California journalist for 35 years, a mother and a
12 grandmother. It is no surprise to me that this young man was
13 released far worse than when he was incarcerated on a DUI as a
14 teen. This is quite a story, and I intend to write it.

15 If you need evidence of these statements, just
16 look at the high rate of recidivism. Most correctional
17 institutions have four separate facilities: A, B, C, and
18 minimum camp. If there's an incident on one of these
19 facilities, even though they're very much separated, all four
20 are locked down. This is a terrible policy, one we feel is
21 solely designed to make the guards' job easier.

22 Guards get time-and-a-half overtime pay during
23 periods of lockdown. Actually, we feel they should be paid less
24 instead of more, because their jobs become much easier. At a
25 time when the state is bankrupt, it makes no sense to keep this
26 policy in force. What it does is encourage correctional
27 officers to cause lockdown, create disturbances, and this
28 attitude of punishment instead of healing permeates every layer

1 of the California Department of Corrections. Callousness and
2 inhumanity begins at the top.

3 These isolation practices are destroying the
4 minds of people who may be in for a very minor crime. We know
5 that 70 percent fall into the nonviolent category, as I stated,
6 and they shouldn't be in prison at all. There are so many
7 alternatives sentencing methods that do create actual healing,
8 and do contribute to the public safety, that do work. This
9 would include prevention, education, rehabilitation,
10 strengthening and encouraging those who have made a mistake. Too
11 little of these actual solutions to crime is happening under
12 Mr. Alameida's management so far.

13 There is no regard for the mentally ill in
14 California's prisons. When Reagan closed the prisons -- the
15 mental hospitals, they all went to prison. So, we have them
16 carelessly double-celled.

17 There are some 50 people a month dying, many more
18 suffering.

19 I have six filing cabinets full of letters of
20 complaint. I'm right on the front line with all of this. We do
21 get the complaints from the families, and from clergy, and other
22 people who are part of our group, and put them out in a daily
23 newsletter everyday. I'm Writer One, and I do send them to
24 several Members of the Legislature. And so, these things can be
25 documented in detail if you need that.

26 Our professionals have observed that practices
27 such as lockdown are creating more mental illness than they're
28 curing. During lockdown, the inmates are cell fed. They lose

1 all the privileges: yard visits; canteen; phone calls; medical
2 and dental visits. They can't go to their jobs or have access
3 to the legal library. They are cut off from everyone to an
4 inhumane degree.

5 And we're not talking about a day or two here and
6 there. Pelican Bay has been on lockdown for two-and-a-half
7 years. We're talking about long periods because one person in
8 one of the four facilities committed an incident. And it might
9 even have been a mentally ill person. And they don't follow
10 rules very well, and so the whole prison goes into this horrible
11 situation.

12 They are all doing it, and they're all getting
13 away with it, and this has been going on before Mr. Alameida.
14 They're allowed a shower every third day. They're handcuffed,
15 escorted to the shower, uncuffed in the shower, and treated as
16 if they're animals. This abuse makes even the most model
17 prisoners sullen and grouchy; it makes them depressed and
18 distraught.

19 The inmates turn in slips to see doctors and
20 dentists, but only emergencies are allowed during lockdown. We
21 have former CDC employees who are members of our group who have
22 described these things to me in detail. And we have some current
23 members who are quiet but sources. We have spies all over the
24 prisons because we're very large. So, I feel that I speak with
25 authority on these conditions.

26 We have the captain of each facility in charge of
27 allowing a few to trickle down for the most minor treatments, to
28 doctors and dentists during these lockdown emergencies. And we

1 are spending a lot of tax dollars on fully staffed clinics with
2 very few inmates being treated for months and months at a time.

3 This has just been -- the inmates are wondering,
4 why am I locked up? What did I do? The person who committed
5 the offense should be the only ones held responsible, not the
6 whole prison population, because that means that lockdown never
7 ends. And it seems that it never does end. This is at all the
8 prisons.

9 The medical people are laughing at the inmates
10 who insist on being seen through numerous appointment slip
11 requests. Some of the MTAs out at New Folsom are throwing the
12 medication at the inmates as they walk past their cells while
13 delivering pills in the morning. That's where four guards were
14 recently stabbed. Is it any wonder that, you know, when they
15 get out, they're angry, they're violent?

16 You treat a person as an animal, and they'll
17 respond in kind every time.

18 The officers love the lockdown. They have a lot
19 of time, no inmates to supervise, no yard to watch. The inmates
20 are kept in their cells 24 hours a day until lockdown is over;
21 sometimes it's 23 hours with another person, a room the size of
22 a bathroom.

23 The guards get paid overtime for cell searching,
24 another safety rule that's been perverted into terrorizing and
25 psychologically intimidating inmates. Just constantly turning
26 their stuff over.

27 What purpose does this huge expense and cruelty
28 serve? The people who committed offenses should be removed.

1 There are other issues, but I'm just going to
2 briefly mention them. These burning topics are likely to result
3 in millions of dollars in lawsuits filed by our people which
4 will nullify any proposed budget cut, if it comes to that.
5 We've filed several, such as the Eddie Dillard, "bootie bandit",
6 as the Stephanie Hardy death at Chowchilla. We've filed a lot
7 of lawsuits; there's millions of dollars. They're posted at our
8 website in case anyone ever just wants to add it all up.

9 It's just a shame that we have to file lawsuits
10 to have people act like good Christians, or whatever their
11 religion is. There's no religion that promotes this inhumanity.
12 And it's just from unbearable incompetence.

13 The CDC Director must take into toe his
14 unbearably incompetent staff. I would fire them all. I mean, I
15 just can't believe some of the terrible reports that I get. It's
16 unthinkable to me and to others.

17 The ambulance taking two and three hours to
18 arrive. The day that Stephanie Hardy died, another visitor died
19 right there on the lawn in front of the whole visiting room.
20 They didn't have any sort of defibrillators. And I know that
21 we've made strides with our fight for medical neglect, but why
22 does it always have to result in a lawsuit? Why can't we just
23 say it, and then it gets resolved?

24 Our ombudsman -- our representative is Ken
25 Hurdle. And I really like him. He tries, but I don't think
26 that the Inspector General's Office has the teeth that it needs
27 to have, because I don't see, you know, resolution. There needs
28 to be much more teeth in that particular office.

1 CHAIRMAN BURTON: I think we've got to have the
2 gist of that, because we have to get, unfortunately, to another
3 budget thing.

4 MS. BIRD: I'll try to wrap it up.

5 We're very upset about the -- we're still having
6 the denied surgeries, no dental care except for pulling the
7 teeth. The clinics are now going to be licensed, so we have a
8 victory there, but that needs to happen sooner rather than
9 later.

10 No training the guards in basic first aid is
11 killing people daily. MTAs who are really guards violates the
12 Hippocratic Oath of medicine. We shouldn't have that position
13 combined.

14 We would just like to see the press access to the
15 prisoners. We feel that banning the press is a violation of the
16 First Amendment.

17 CHAIRMAN BURTON: The Legislature's three times
18 passed that, and the Governor's three times vetoed it. Not much
19 we can do.

20 MS. BIRD: I know where it's coming from, but I
21 do want to just put it on the record.

22 I'm very well aware of the origination of a lot
23 of the problems, but somebody has to voice these things.

24 CHAIRMAN BURTON: I understand.

25 MS. BIRD: We feel that we need a compassionate
26 balance of the CDC Director as a requisite for this position,
27 and we would like to see Mr. Alameida stand up to Governor Davis
28 for denying the proper budget. Just say, "There's too many

1 people in prison."

2 We'd have no right to be putting this many people
3 in prison if we can't provide for them, their health, their
4 basics. We haven't had a raise in the food budget in 15 years,
5 \$2.15 a day.

6 People aren't coming out better. They're coming
7 out much worse. We feel that compassionate release should be
8 high on the agenda, and we want him to stand up and refuse to
9 allow people to be mistreated, or to die, over the fact that we
10 just have too many people in prison.

11 And it'll take courage to do that, but courage is
12 needed here. We're destroying lives, and we as taxpayers did
13 not commission our government to destroy lives.

14 All right. I'm waiting to see the visiting
15 regulations. We do have a lawsuit planned if those aren't
16 satisfactory to us. I haven't seen them yet. No one sent me a
17 copy. I think we made a strong statement there that day.

18 We wish that we didn't have to be, you know,
19 threatening lawsuits and filing lawsuits, but when we're nice,
20 nobody listens. We don't get any results. So, I don't know
21 what to do about that. We just don't get, you know, the
22 interaction that we need to get.

23 And it isn't because Ken is poor. It's just
24 because whatever -- they just lie to him and say, well, that's
25 not right, and this isn't really happening. And then there's
26 all kinds of court.

27 The inmates complaints are not respected.
28 There's retribution if they complain, if they file their various

1 slips. There's retribution to them for telling on the guards.
2 And the courts aren't very just. The CDC processes, they're
3 adding time.

4 I could just sit here and go on, but I won't.
5 It's out of control, it's out of control, and we know that this
6 industry is more important than people.

7 CHAIRMAN BURTON: Do you have that, your
8 statement? I would like that. If you're finished, I'd like to
9 have that.

10 MS. BIRD: Okay, and I've given it to Nettie
11 already, and she's very helpful, I might mention.

12 CHAIRMAN BURTON: I think your statement was more
13 than this. This one's two-and-a-half pages.

14 MS. BIRD: No, no. It was pretty much it. I
15 just added a couple of sentences. Just a couple of sentences
16 about the food.

17 CHAIRMAN BURTON: This is the high point of the
18 issues?

19 MS. BIRD: Yes. I could have done a lot, but we
20 wanted to focus on lockdown because it's just out of control.

21 CHAIRMAN BURTON: I got you.

22 MS. BIRD: Too much. And the time-and-a-half of
23 that, I have no idea how much that's totaling, but we think the
24 pay should actually be lowered for lockdown, and that would stop
25 this, you know, purposeful creating of incidents.

26 So, that's it. The psychological intimidation,
27 making everybody sick. We need to get a different attitude of
28 healing.

1 Thank you for allowing me to speak.

2 CHAIRMAN BURTON: Well, I would say that
3 Mr. Alameida, at least his appearance here, has been a lot more
4 refreshing to me than appearances we've had by some of the other
5 directors and some of the people that are involved. So, I see
6 some changes. I think, one, you can't do a hell of a lot
7 without money, and the guy controlling the money isn't the guy
8 sitting next to you.

9 MS. BIRD: That's right. But you've got to stand
10 up to him, and you've got to say, "You know, medical neglect is
11 murder."

12 CHAIRMAN BURTON: Then you'll end up with Captain
13 Queeg or Captain Muncie.

14 MS. BIRD: Well, I understand that, but --

15 CHAIRMAN BURTON: For those of us who have seen
16 Brute Force. Did you ever see Brute Force?

17 MS. BIRD: No.

18 CHAIRMAN BURTON: Go to your video, get Brute
19 Force, an old prison movie in the '40s, but there was a nice,
20 old warden. And then when he died, Captain Muncie took over the
21 prison. He was not a nice man.

22 MS. BIRD: I understand that there has to be
23 control.

24 CHAIRMAN BURTON: No, I'm talking about, stand up
25 to the Governor a couple times and --

26 MS. BIRD: I'd like to be there on Judgment Day.

27 CHAIRMAN BURTON: A lot of us would.

28 [Laughter.]

1 MS. BIRD: I hope that I'm the reporter that
2 gets to cover it.

3 CHAIRMAN BURTON: Are you testifying, ma'am?

4 MS. BIRD: Thank you very much.

5 CHAIRMAN BURTON: Thank you very much.

6 MS. VANNATTER: My name is Lanie Vannatter, also
7 A.J. Vannatter.

8 Mr. Alameida, I don't know if you've received any
9 of my many letters yet, but I'm considered a PIA; that's a Pain
10 in the hindquarters put politely.

11 I'm one of your failures. I am a former CDC
12 officer, and I'm your failure because the people that drove me
13 literally insane remain to do that to other people, while I was
14 screaming for help. So, I made a choice, and my choice was the
15 other side of the fence. Strange choice, but I'm known for
16 right angles.

17 My concerns are not quite the same as Ms. Bird's.
18 Number one, I understand that lockdowns are not a period to sit
19 on your hindquarters and suck your thumb. That means you do all
20 the work. You clean it up. You have to shower. You have to
21 feed. You've got to clean up after feeding. I know how much
22 work is involved because I did it.

23 I do know that the Department of Corrections is a
24 prisoner to CCPOA, and it's been sold by the Governor. I state
25 pretty much what I feel and what I think at any time. Not known
26 for moderation. A little bit of a hothead, which I will admit
27 as well, which -- Senator Burton, I absolutely every time I see
28 you on television, my heart takes a lift because I love the way

1 you just say it the way it is.

2 What I'm concerned about is that you do not seem
3 to have control of your own wardens and prisons. Going back to,
4 of all things, visiting, proposed regulations, they are still
5 not viewed in a lot of prisons, including California Medical
6 Facility.

7 And when I questioned why, I was told, well
8 they've got to be in a glass case like the visiting rules, and
9 we don't have the case done.

10 And I said, do you understand there was a memo
11 directly from the Director that these were to be put up?

12 Oh, yeah. We're going to get to it.

13 And that's kind of the attitude. The attitude
14 was also, well, we get a lot of memos from the Director's
15 office; we don't necessarily pay attention to them.

16 Sir, I know that you have huge job ahead of you
17 regaining control of the prisons over CCPOA. That's why I'm no
18 longer a CDC officer.

19 And I will tell you this. It was a job that I
20 loved like I've loved nothing in my life. I actually got up at
21 4:30 in the morning willingly, and for me, that's really
22 unusual. I don't do that for fish.

23 The kind of help that I needed, and that people
24 knew I needed, I wasn't getting. So, I simply lost my mind. I
25 have spent -- I spent a year, almost a full year, not knowing
26 who I was, where I was, or who my family was. I have fought to
27 come out of that. It took a psychiatrist, and a counselor, and
28 medication. Well, I'm out of it, and now I do remember, and I

1 do fight.

2 I believe in the Department of Corrections,
3 because without laws, and without Corrections, we do not have a
4 society. We live in a war zone. I don't want to live in a war
5 zone.

6 You have not been very responsive to any group
7 other than the Family Council, which, thank God, you were at
8 least -- they're at least in meeting with you. But there are a
9 lot of other groups, including many I belong to, and my
10 organization is Families of Prisoners. We are creating an
11 umbrella organization now, that we are pulling in people from
12 all over the state, and our numbers are going into the
13 thousands. People who are willing to speak up and talk about
14 what's wrong, not attack the officers for doing their job.

15 I understand lockups. Yes, the lockdowns are
16 going on far too long. I understand why you have to take the
17 prisoners out in handcuffs, and then take them out of the
18 handcuffs in the shower. I've been there when the fights
19 happened. I've been there when people's throats were slit. I
20 understand the necessary.

21 But I also understand that when you put two human
22 beings in the amount of space that it would be illegal to put
23 one badger in by federal law, you're going to have bigger
24 problems.

25 Yes, there is NA and Alcoholics Anonymous
26 inside. And there are a few other groups, but most of them are
27 actually in the lower levels. The higher levels, where they're
28 desperately needed don't have them anymore.

1 The jobs are very scarce, and this heart smart
2 diet that the prisons are instituting are leaving the prisoners
3 hungry, unless they have someone outside to provide them with
4 money for canteen and with packages. And I can tell you that I
5 spend approximately \$300 every three months on those packages.
6 That they're hungry.

7 When men are hungry, when they're bored, these
8 people don't have good impulse control. I know them well. I am
9 engaged to one of them. He's learned, in 24 years, to have
10 great impulse control. If you learn nothing else, you decide
11 you really don't want to stay on the wrong side of that.

12 But they're hungry. The food quality start out
13 good, but we all know that God sent food, and the Devil sent the
14 cooks. I've eaten the food. I know that everything's cooked
15 out of it.

16 Something needs to change. You, sir, need to be
17 more responsive to prisoners themselves, to the guards that need
18 help. And they're not guards; they're correctional officers.
19 The guards are the ones who don't obey the laws.

20 But when you get stuck in a situation where
21 you're trying to do what the law says, and everybody around you
22 is tell you not to do what the law says, and if you don't do
23 what the law says you're going to get sued, and the Department
24 says, "Oh well, that's your problem," and nobody's listening
25 while you're crying for help, then there's a problem.

26 I ask you to please consider meeting with other
27 groups of visitors. You, sir, did not listen to the Family
28 Council either when they gave you their input on the proposed

1 visiting changes. They were unbelievable from the point of an
2 officer. I couldn't understand them from the point of a
3 visitor. I was more than a little upset.

4 So, I ask you not to deny his confirmation, but
5 simply to postpone it. Let's see if he can stand up to CCPOA.
6 Let's see if he is more willing to listen to visitors and family
7 members who are trying to explain to him what we know is going
8 on.

9 Thank you very much, sir. I think that probably
10 you're going to make an excellent Director. I just ask that we
11 have some time to understand whether or not you are going to
12 address these issues.

13 Thank you very much.

14 CHAIRMAN BURTON: Thank you.

15 I just have a couple questions to Mr. Alameida.

16 Respectfully, we have put this thing over awhile.
17 The hearing was scheduled earlier, and it's not my intention to
18 do that.

19 Is really the food budget \$2.30 a day?

20 MR. ALAMEIDA: It's \$2.45.

21 CHAIRMAN BURTON: What the hell can you get for
22 that?

23 MR. ALAMEIDA: It's not --

24 CHAIRMAN BURTON: Even if you buy in bulk?

25 MR. ALAMEIDA: Yes, we do.

26 CHAIRMAN BURTON: No, I said, even if you did.

27 MR. ALAMEIDA: We do a number of things in terms
28 of the purchase. We also have opportunity buys with various

1 corporations as it relates to our food budget. We also have --

2 CHAIRMAN BURTON: I don't care how you slice it.
3 How the hell can you feed anybody on 2.45 a day? I mean, unless
4 you're the guy that set that thing.

5 No matter what you get in bulk, no matter what it
6 is, how the hell can you do it, forgetting whoever's cooking
7 it? I mean, 2.45 a day, you could probably do Special K and
8 milk three meals, which actually probably wouldn't be bad for
9 somebody.

10 MR. ALAMEIDA: Senator, having been a warden at
11 an institution and managed as an AW Business Services the food
12 budget, and having ate the meals at the institution because part
13 of my responsibility was to ensure that the meal was edible, and
14 that it was sufficient to provide for the health of the inmates
15 that we had at the facility, we can do quite a bit with \$2.45 a
16 day.

17 It doesn't mean that we shouldn't look at
18 that.

19 CHAIRMAN BURTON: I just think you ought to look
20 at it. I'd like to see, like they used to do in the Army, but
21 I'd just like to see a week's menu.

22 MR. ALAMEIDA: I'll be glad to provide that,
23 Senator.

24 CHAIRMAN BURTON: Also, on the lockdown, what
25 does it take to precipitate a lockdown? One guy doing
26 something? Two people doing something? Or, one guy doing
27 something, but it looks like all hell's going to break lose.

28 Like, two people screw up, and the whole wing, or

1 something, is locked down?

2 MR. ALAMEIDA: Not generally speaking.

3 CHAIRMAN BURTON: What would be the mildest thing
4 that precipitated it? I could see like a full thing, gang beef
5 in the mess hall doing it.

6 MR. ALAMEIDA: Generally speaking, when we go on
7 lockdown, it's because there's been a violent act in which
8 there's weapons that have been involved, and there's been
9 serious injury. More likely that has been between two groups,
10 two ethnicities or two gang groups.

11 Those are generally the reasons that precipitate
12 a lockdown while we make a determination, and get enough
13 intelligence, to know that it's not going to be pervasive
14 throughout the institution.

15 Our practices are not generally to lock down the
16 entire institution for lengths of time when various facilities
17 haven't been affected, unless we have information that would
18 give us cause to be concerned for the safety of the inmates and
19 for the staff that this may be going into B Facility or into C
20 Facility, when it emanated out of A Facility.

21 CHAIRMAN BURTON: If you decide to lock it down,
22 is it an automatic 24-hour lockdown, or just lock down until you
23 see what's going on?

24 MR. ALAMEIDA: Generally, we lock it down until
25 such time as we can do interviews of the affected groups. If it
26 requires that we do searches, that we do searches as well,
27 because part of locking a facility down is also managing how
28 you're going to unlock the facility in such a safe manner that

1 you don't create an incident that might affect the inmates or
2 the staff.

3 So, there's a whole process we go through.

4 CHAIRMAN BURTON: If there's a lockdown, it's
5 automatically time-and-a-half? Did I hear that?

6 MR. ALAMEIDA: No, that's not the case. Having
7 worked for --

8 CHAIRMAN BURTON: All right. I thought I heard
9 something.

10 Well, I think, one, I'm a great believer in
11 literacy in the prisons. My brother did 20 years teaching at
12 San Quentin.

13 I think the prep for people getting out is
14 important. As you said, three weeks doesn't make much sense at
15 all, or four weeks. They probably should do it earlier, and
16 they ought to find out what they need.

17 And I would think that, again, you ought to check
18 to see, I'm sure there're AA and NA, anger management, and
19 things of that sort.

20 And again, I think that the visiting system is
21 very important, because, you know, when somebody figures there's
22 no hope, and there's nothing to lose, and who cares, then it
23 gets dangerous, I think, for the guards. It's like, we used to
24 have Legislators that wanted to be tough on crime. And even a
25 Congressional guard said some of their ideas were kind of
26 stupid, because if these guys really had nothing to lose, then
27 they would really do something.

28 We want to help you do the job. We're going to

1 be watching. I think it would be helpful if, in fact, that
2 you've got directives, and wardens are disobeying them, that you
3 ought to know that, and I think we ought to know that, and I
4 think Secretary Presley ought to know that, because I think
5 that's how it goes. It goes from Davis, to Presley, to you, to
6 them. Wardens are not supposed to necessarily, and they have to
7 have some flexibility, but other than that, I don't know.

8 I'll move the nomination.

9 SECRETARY WEBB: Senator Karnette.

10 SENATOR KARNETTE: Aye.

11 SECRETARY WEBB: Karnette Aye. Senator Knight.

12 SENATOR KNIGHT: Aye.

13 SECRETARY WEBB: Knight Aye. Senator Romero.

14 SENATOR ROMERO: Aye.

15 SECRETARY WEBB: Romero Aye. Senator Burton.

16 CHAIRMAN BURTON: Aye.

17 SECRETARY WEBB: Burton Aye. Four to zero.

18 CHAIRMAN BURTON: Congratulations.

19 MR. ALAMEIDA: Thank you very much.

20 [Thereupon this portion of the
21 Senate Rules Committee hearing
22 was terminated at approximately.

23 2:55 P.M.]

24 --ooOoo--

CERTIFICATE OF SHORTHAND REPORTER

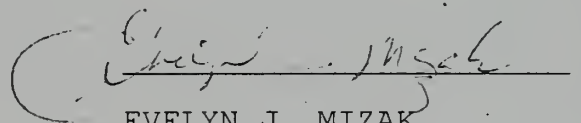
I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing transcript of the Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn J. Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this

5/25 day of May, 2002.


EVELYN J. MIZAK
Shorthand Reporter



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1 SENATE RULES COMMITTEE

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6 HEARING

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10 STATE CAPITOL

11 ROOM 113

12 SACRAMENTO, CALIFORNIA

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16 WEDNESDAY, MAY 22, 2002

17 1:36 P.M.

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25 Reported by:

26
27 Evelyn J. Mizak
28 Shorthand Reporter

APPEARANCESMEMBERS PRESENT

SENATOR JOHN BURTON, Chair

SENATOR ROSS JOHNSON, Vice Chair

SENATOR BETTY KARNETTE

SENATOR WILLIAM KNIGHT

SENATOR GLORIA ROMERO

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NETTIE SABELHAUS, Consultant on Governor's Appointments

SUSIE SWATT, Consultant to SENATOR JOHNSON

TIM SHELLEY, Consultant to SENATOR KARNETTE

CHRIS BURNS, Consultant to SENATOR KNIGHT

RYAN SHERMAN, Consultant to SENATOR ROMERO

ALSO PRESENT

MARTIN GALLEGOS, D.C., Patient Advocate
Department of Managed Health Care

BETH CAPELL
Health Access/SEIU

BETTY PERRY
Congress of California Seniors and OWL

PETER COOPER
California Labor Federation

STEVE THOMPSON
California Medical Association

TERRI COWGER
California Children's Hospital Association

1 MARJORIE SWARTZ
2 Western Center for Law and Poverty

3 DIANA K. BUTLER, Warden
4 Folsom State Prison

5 ROY MABRY, State President
6 Association of Black Correctional Workers

7 SUZANNA AGUILERA-MARRERO, President
8 Chicano Correctional Workers Association

9 OLIVER F. ACUNA, Chair
10 Folsom Chapter, CCPOA

11 LARRY S. DOMINO
12 CCPOA, ABCW, MILE

13 B. CAYENNE BIRD
14 UNION

15 JOHN DOVEY, Warden
16 California Institution for Women, Corona

17 NICK MARTINEZ
18 CSEA

19 RICHARD D. VILLANUEVA, President
20 CIW Chapter XV, CCSO

21 CUBBY MUNERLYN
22 ABCW

23 RICHARD TATUM, State President
24 California Correctional Supervisors Organization

25 DAVID L. RUNNELS, Warden
26 High Desert State Prison, Susanville
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P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

CHAIRMAN BURTON: Governor's appointees appearing today, Marty Gallegos, Patient Advocate, Department of Managed Care.

Marty.

MR. GALLEGOS: Thank you, Mr. Chairman and Members. Good afternoon.

I'm delighted to be here. It's good to see some of my former colleagues.

I certainly appreciate the opportunity to be here today for you to consider confirmation of my appointment as the Patient Advocate for the State of California.

I was truly honored to have been selected by Governor Davis to serve in this capacity for the 22 million commercial HMO enrollees in this state.

I think you're all pretty familiar with my history and background in this area of managed care, particularly with regard to consumer advocacy, and that would be from my role as a health care provider as well as a Legislator, and now as an implementer. I would hope that you would view these qualifications as valuable to serve capably and competently in the role of Patient Advocate.

As you're probably aware, the Office of Patient Advocate was created by AB 78, which was signed into law by Governor Gray Davis in 1999 as part of the 21 bill HMO reform package for that year. The office, which actually began operating on July 1st of 2000, arose out of the need for

1 consumers to be provided with information and education about
2 the managed care system so they could better understand their
3 rights and responsibilities as HMO consumers.

4 Now, the Office of Patient Advocate serves a
5 valuable function and addresses consumers' desire for
6 information to assist them in understanding how to navigate the
7 sometimes complicated and confusing managed care system in
8 California.

9 In the eight months that I have been serving in
10 this capacity, I've overseen the accomplishment of this mission
11 by effectively carrying out the statutory duties and obligations
12 of the Office of Patient Advocate, which include producing the
13 HMO quality report card, developing consumer education programs
14 and materials, providing advice and assistance to HMO enrollees,
15 making recommendations to the Department of Managed Health Care,
16 and collaborating with other consumer organizations.

17 In order to carry out these duties, myself and my
18 staff have developed and put into motion an ambitious agenda
19 that is included in the list of goals and objectives which has
20 been provided, and I hope distributed, to each of you, and is
21 also included in the package which was distributed to you this
22 afternoon. This agenda includes: improving and expanding the
23 HMO quality report card; in that regard, we will be updating
24 quality data for the first year report card; expanding on the
25 reporting of cultural and linguistic services; embarking on
26 reporting of individual medical group quality data; and
27 providing an analysis of complaint data that is compiled by the
28 Department of Managed Health Care.

1 We will also continue to expand the role of the
2 Mobile Information Center Program, which is the program that
3 travels to community events throughout the state to provide
4 consumers with one-to-one information about how to understand
5 and navigate their HMO.

6 This year, we will be also contracting with seven
7 local community-based consumer assistance organizations to help
8 us in that effort as well. Similar to, I think, what is also
9 being proposed in legislation, and something that I feel is
10 extremely important in working to get access, and to get the
11 message, and to get information out to consumers within the
12 community, these type of collaborative efforts and these
13 public-private partnerships, I think, can be very beneficial to
14 health care consumers in general.

15 This summer, we plan to publish a comprehensive
16 HMO consumer guidebook, which will provide a broad array of
17 basic information about managed care, how to effectively use it.
18 We are partnering with UC Berkeley in that endeavor. We are
19 also partnering with UCLA to produce a demographic report and
20 profile of the HMO consumer in California.

21 These are just a few of the initiatives that we
22 will be completing within the coming months.

23 Finally, I'm very proud of the broad base of
24 organization that has come forward to support my confirmation.
25 They represent what I think is a diverse group of consumers and
26 providers, and additional letters have you been included in the
27 folder that we sent out to you, and they are from: AARP, the
28 Latino Coalition for Healthy California; and the California

1 Latino Medical Association. As far as I'm aware, there is no
2 opposition to my confirmation.

3 At this time, I would like to simply,
4 respectfully request your vote for my confirmation as Patient
5 Advocate and would be happy to entertain any questions.

6 Thank you.

7 CHAIRMAN BURTON: Under the current law, the
8 different types of health insurance are regulated by different
9 departments. The Department of Managed Health Care regulates
10 HMOs and some PPOs, while the Department of Insurance regulates
11 the PPOs that aren't regulated by the Department of Managed
12 Health Care. And the Department of Health Services have some
13 jurisdiction over some managed care entities, as well as those
14 delivering services to Medi-Cal.

15 There was a study by -- I don't know who
16 authorized it; I guess the head of your department, the
17 Department of Managed Care -- had Clark Kelso do a study about
18 the feasibility and benefit of consolidating jurisdictions. And
19 the study didn't make any concrete recommendations, which to me
20 is very confusing.

21 Basically, if somebody needs help, how do they
22 know even who to go to? Whether to go to you, go to Health
23 Services, or go to the Department of Insurance?

24 MR. GALLEGOS: Well, Mr. Chairman, indeed, the
25 current system of regulation and oversight is confusing to
26 consumers. The Advisory Committee for the Department of
27 Managed Health Care, on which I serve as an ex-officio member,
28 did commission the report from Professor Clark Kelso at McGeorge

1 School of Law.

2 He actually made about, if I recall correctly,
3 eight different recommendations -- eight different options, none
4 of which were specific recommendations but were options for the
5 Department to review in looking at regulatory reform.

6 Now currently, if a consumer does have a question
7 or needs to call their health plan, whether it's under the
8 Department of Insurance, Department of Managed Health Care,
9 Department of Health Services, or where ever, there is by law a
10 required consumer or members telephone number which is toll-free
11 which is printed on the back of the insurance card. Now, if the
12 consumer doesn't have their insurance card, which happens in
13 some cases, then they would find themselves in a difficult
14 situation.

15 CHAIRMAN BURTON: Do they get a live person, or
16 do they get press one, press two, press three; do you know?

17 MR. GALLEGOS: Well, I can only speak for the HMO
18 Help Center. I can't speak for the other entities.

19 There is a voice referral system that's part of
20 the toll-free number to the HMO Help Center, but there is also
21 an option for consumers to get a live person in a number of
22 different languages other than English to accommodate the non
23 and the limited English speaking consumer.

24 The records from the Department HMO Help Center
25 do indicate that about 40 percent of the calls that do come into
26 the Help Center are taken care of through the voice referral
27 system, but I can't address what the other departments do,
28 Mr. Chairman.

1 CHAIRMAN BURTON: I guess we can get that, what
2 his options were.

3 I would have figured somebody could have figured
4 out what the options are without commissioning a study. I think
5 you ask a study to give some recommendations.

6 MR. GALLEGOS: Well, the study did produce
7 options that ranged everywhere from full-blown consolidation of
8 regulation of all of the different lines of service for health
9 care, all the way down to what was perceived to be one of the
10 simplest to implement, which would be to have one central toll-
11 free number where anybody who gets insurance under any kind of
12 program would just be able to pick up that call; somebody would
13 then be able to direct them to the appropriate agency or entity
14 to answer the questions and resolve their issue.

15 Now, what the report did do was to give
16 advantages and disadvantages, projected costs for all of the
17 different options of reform, and provide pros and cons, good
18 things and bad things under each of the different options for
19 regulatory reform.

20 CHAIRMAN BURTON: So, we'll probably not do
21 anything.

22 MR. GALLEGOS: I don't know, to be honest with
23 you, Mr. Chairman.

24 CHAIRMAN BURTON: Senator Johnson.

25 SENATOR JOHNSON: I don't have any questions, but
26 I would just offer the observation that if there's changes, they
27 ought to come from this Legislature.

28 MR. GALLEGOS: Absolutely.

1 SENATOR JOHNSON: The Legislature ought to be
2 proposing any change.

3 But I have no questions of this gentleman. I've
4 known him for a number of years. While I don't always agree
5 with him, I think he's highly qualified.

6 MR. GALLEGOS: Thank you, Senator Johnson.

7 CHAIRMAN BURTON: Senator Romero.

8 SENATOR ROMERO: Thank you.

9 Let me ask a couple of questions about your view
10 on the publication of provider financial information. Is that a
11 question as to what type of information consumers should have
12 access to with respect to the financial solvency or insolvency
13 of the group? What are your opinions on this?

14 MR. GALLEGOS: Well, I support the consumer
15 advocate's position that there should be full disclosure of
16 information for consumers from a safety standpoint, from a
17 choice standpoint. I think providing that information is very
18 valuable to consumers.

19 Now, the courts, however, seem to think
20 otherwise. There was a recent ruling which tied the hands of
21 the Department of Managed Health Care.

22 And by the way, that's their role. That
23 particular entity really is their role.

24 But nevertheless, to answer your question, the
25 Department of Managed Health Care also supported that position,
26 if I'm not mistaken, as did pretty much most of the members of
27 the Fiscal Solvency Standards Board. But because of the court's
28 decision --

1 SENATOR ROMERO: Were you sitting on the board at
2 the time of that --

3 MR. GALLEGOS: As an ex-officio member, yes.

4 SENATOR ROMERO: And then, if you could also let
5 us know what position you took, if any, with respect to your
6 role as the Patient Advocate.

7 MR. GALLEGOS: Sure.

8 Getting back to the answer to the first question,
9 the court ruling basically tied the hands of the Department.
10 The Department felt that -- feels that they're, by that ruling,
11 not allowed to even collect data, let alone publicly report it.

12 Now, there are some fiscal solvency data that was
13 reportable and agreed to buy all parties prior to the court
14 ruling. There were about four different criteria for fiscal
15 solvency.

16 But the Department has ceased to collect, at this
17 point, any financial information from the health plans based on
18 their interpretation of the court ruling.

19 My position as ex-officio member of that board
20 during those deliberations, and I was only a party to probably
21 the last two or three meetings on this issue, was that along
22 with the consumer advocates, we felt that as much disclosure of
23 this information to consumers would be a benefit to consumers.
24 So, I mean, we're obviously disappointed at the court ruling.

25 And I believe the Department -- and again, I'm
26 not here to speak on behalf of the Department because that's not
27 my role -- but the Department is going back to review on the
28 suggestion of consumer advocates how they could restructure

1 regulation to address the issues brought up in the court ruling
2 and still be able to provide valuable information to consumers
3 about the financial status of their plans.

4 SENATOR ROMERO: Thank you.

5 Also, you wrote the legislation which resulted in
6 the creation of this position, and of course --

7 MR. GALLEGOS: Yes, don't hold that against me,
8 please.

9 SENATOR ROMERO: Because you've been nominated to
10 assume that position, how does it measure up to how you had
11 imagined it to be? What are shortcomings? What might be done
12 to strengthen it? Can you tell us a little bit how it is
13 stacking up to what you originally conceived the position to be?

14 MR. GALLEGOS: I'll try to be objective, Senator,
15 in that response.

16 Short of wanting to say it was a great bill, and
17 it's doing an outstanding job for consumers, truly I think that
18 this was one of the major pieces in that 21 bill package of HMO
19 reform that has been valuable to reestablishing confidence in the
20 consumers in the HMO system.

21 Now, I think we still have a ways to go. The
22 Department as well as the Office of Patient Advocate has only
23 been in operation for less than two years. And, of course, the
24 size of the task in sheer numbers in California just means that
25 we still have a lot of work left to do.

26 I think for the most part that both the
27 Department and the Office have been carrying out the intent of
28 the legislation to the best of their ability. I think they've

1 been doing an outstanding job, and I hope that in my role, now
2 assuming the direction of the Office of the Patient Advocate,
3 we'll be able to take it to a higher level. We certainly are
4 planning to do that, given the resources that we have.

5 I think it's been, over all, a big boon to
6 consumers, and I think consumers have benefitted from this
7 legislation.

8 SENATOR ROMERO: Thank you.

9 MR. GALLEGOS: You're welcome.

10 CHAIRMAN BURTON: Was that an appellate decision,
11 a Supreme Court decision, or what?

12 MR. GALLEGOS: Prohibiting the Department from
13 collecting, Superior Court.

14 CHAIRMAN BURTON: Did they appeal it or what?

15 MR. GALLEGOS: Senator, that's in the domain of
16 the Department, so I'm not sure. I'm sure that they're probably
17 looking at that option.

18 There are probably folks here who can probably
19 answer that question better, but I know that is an option that
20 they have.

21 CHAIRMAN BURTON: Does anybody know whether it
22 was appealed or what?

23 MR. GALLEGOS: I don't believe it has been
24 appealed. And I don't believe --

25 CHAIRMAN BURTON: I thought that were people here
26 that might know. Anybody here know?

27 MS. CAPELL [FROM THE AUDIENCE]: It has not been
28 appealed.

1 CHAIRMAN BURTON: Pardon me?

2 MS. CAPELL: Beth Capell on behalf of Health
3 Access.

4 The decision has not been appealed.

5 CHAIRMAN BURTON: It's only a Superior Court
6 decision?

7 MS. CAPELL: There were defects in the law
8 revealed by the decision that are under discussion about how --

9 CHAIRMAN BURTON: Defects in the law or the regs?

10 MS. CAPELL: In the law -- both, but in the
11 underlying statute as well. So, there's further discussion
12 going on about -- among many parties about how best to proceed.

13 CHAIRMAN BURTON: All right, thank you.

14 MR. GALLEGOS: And certainly legislative solution
15 is another option.

16 CHAIRMAN BURTON: It usually is.

17 Senator Knight.

18 SENATOR KNIGHT: Yes, thank you, Mr. Chairman.

19 Nice to see you again, Marty.

20 MR. GALLEGOS: Thank you, Senator. Likewise.

21 SENATOR KNIGHT: I've got a number of
22 constituents, and they call me. Most of the time, the only
23 thing I can tell them is, you know, you need a lawyer.

24 So, if you'd give me your number, I'd certainly
25 like to refer them to you.

26 [Laughter.]

27 SENATOR JOHNSON: Tell them to find a good
28 chiropractor.

1 [Laughter.]

2 MR. GALLEGOS: It's just hard to find a good one
3 nowadays, Senator Johnson.

4 I'd be happy to. If it's an issue where there's
5 a complaint or a dispute with their health plan, they can call
6 the Help Center at 1-888-HMO-2219. And if it's an issue where
7 they just need some information or some questions answered, they
8 can certainly go to the OPA website, which is www -- you want a
9 phone number?

10 SENATOR KNIGHT: See, these people don't have a
11 computer.

12 MR. GALLEGOS: For your constituents, it would be
13 the Los Angeles office, which is Area Code 213, 897-0579.

14 Your staff is also welcome, Senator, to compile
15 whatever information from your constituents. Call our office,
16 forward that to us, and then we'd be happy at that point to
17 proceed with the appropriate steps to address your constituent's
18 concerns.

19 And that I would say for any Legislator, not just
20 a Member of this Committee.

21 SENATOR KNIGHT: Thank you.

22 MR. GALLEGOS: Sure.

23 CHAIRMAN BURTON: Senator Karnette.

24 SENATOR KARNETTE: I'm glad to see you. I saw
25 you a little earlier.

26 I'm always concerned about efficiency and
27 agencies communicating with each other. Tell me a little bit
28 about how it's possible that we can make all of these agencies,

1 all of these health care agencies, communicate with each other.
2 Because, you may know things that they need to know; they may
3 know things that you need to know.

4 Does it take legislation? Can we make it happen
5 by just telling people it should happen? Because that's one of
6 the big difficulties with bureaucracies. They don't talk to
7 each other.

8 I had a bill that related to environmental
9 concerns, the same idea, getting the environmental agencies to
10 talk to each other.

11 So, do you have any ideas on that? This is
12 something that really disturbs me, the inefficiency of agencies,
13 and people not wanting to even talk about what their issues are
14 with anybody, as if nobody should have them except them. You
15 know, we can all have them.

16 MR. GALLEGOS: Senator, I think in general there
17 isn't anything to stop or stifle individual departments from
18 taking the initiative to communicate with similar bodies in
19 government. I'll give you an example of what we're doing at
20 Office of Patient Advocate with the Department of Health
21 Services and with Mr. Mibb, and also with CMS.

22 We're looking at how we can create a joint
23 venture, an interdepartmental effort to report data on quality
24 of health plans, not only in the commercial sector, in the
25 private commercial sector, but also in Medi-Cal managed care in
26 Healthy Families, and in Medi-Care.

27 We think that would be an efficient way, rather
28 than each of our entities individually reporting similar data

1 four different times, that we could maybe have one vehicle to
2 report it one time for all of the consumers, whether they get
3 their care from Medi-Cal or whether they get it from the private
4 commercial health plans. So, that's one way.

5 Another way is, OPA participates in what's called
6 the Interagency Task Force with the California Department of
7 Insurance, with the Center for Medi-Care and Medicaid Services,
8 and other governmental entities. And what we do is, we look at
9 how we can integrate state and federal regulations, establish
10 jurisdictional boundaries, and what would be proper referral
11 procedures for individuals, depending on what line of business
12 they receive their health care.

13 And so, there's a couple of examples where the
14 initiative was taken by the respective governmental entities to
15 try to improve better communication. So, the answer to the rest
16 of your question is, I don't think it requires legislation, but
17 certainly a strong message from the Legislature that that's a
18 priority for departments to communicate with similar bodies in
19 other departments might spur some initiative for that to happen
20 on a more frequent basis.

21 SENATOR KARNETTE: I'll think about that.

22 MR. GALLEGOS: Thank you.

23 SENATOR JOHNSON: Feel free to take back a strong
24 message from that Committee.

25 MR. GALLEGOS: So noted, Senator.

26 SENATOR ROMERO: Move the nomination.

27 CHAIRMAN BURTON: Do you have any family here?

28 MR. GALLEGOS: Yes, I believe there are some

1 witnesses here in support.

2 CHAIRMAN BURTON: Do you have family?

3 MR. GALLEGOS: Sorry, I didn't hear you.

4 No, there's no family present.

5 CHAIRMAN BURTON: All right, witnesses in
6 support. Announce your name and organization, and that's it.

7 MR. CAPELL: Yes, sir.

8 Beth Capell on behalf of Health Access. Pleased
9 to be here in support.

10 MS. PERRY: Betty Perry. I'm representing the
11 Congress of California Seniors as well as the Older Women's
12 League today.

13 MR. COOPER: Peter Cooper on behalf of the
14 California Labor Federation.

15 MR. THOMPSON: Steve Thompson, a former student
16 of Ms. Perry, and we support, the CMA supports, anything she
17 supports.

18 MS. COWGER: Terri Cowger on behalf of the
19 California Children's Hospital Association and the Hemophilia
20 Council of California in strong support.

21 MS. SWARTZ: Marjorie Swartz, representing Western
22 Center on Law and Poverty.

23 CHAIRMAN BURTON: Witnesses in opposition?
24 Hearing none, Senator Romero moves the nomination. Call the
25 roll.

26 SECRETARY WEBB: Senator Karnette.

27 SENATOR KARNETTE: Aye.

28 SECRETARY WEBB: Karnette Aye. Senator Knight.

1 SENATOR KNIGHT: Aye.

2 SECRETARY WEBB: Knight Aye. Senator Romero.

3 SENATOR ROMERO: Aye.

4 SECRETARY WEBB: Romero Aye. Senator Johnson.

5 SENATOR JOHNSON: Aye.

6 SECRETARY WEBB: Johnson Aye. Senator Burton.

7 CHAIRMAN BURTON: Aye.

8 SECRETARY WEBB: Burton Aye. Five to zero.

9 CHAIRMAN BURTON: Congratulations, Marty.

10 MR. GALLEGOS: Thank you, Mr. Chairman and
11 Members.

12 CHAIRMAN BURTON: Diana Butler, Warden, Folsom.
13 Good afternoon.

14 MS. BUTLER: Senator Burton, Senate Rules
15 Committee, and those present, good afternoon. Thank you for the
16 opportunity to come before you and present my qualifications as
17 Warden appointee of Folsom State Prison.

18 My professional experience includes serving the
19 Department of Corrections for over 24 years, serving in both
20 custody and noncustody. I have worked at six different
21 institutions covering all levels of inmate custody, from the
22 camp inmates to those housed in the Security Housing Unit.

23 Prior to being appointed as the Warden of Folsom
24 State Prison, I was appointed and confirmed as the Warden of
25 Chuckawalla Valley State Prison in Blythe, from 1998 to 2001.
26 Prior to that, I was the Chief Deputy Warden at Ironwood State
27 Prison, which was an activating prison. Prior to that, I was
28 Chief of Classification Services, which is a major area in

1 Headquarters. And I have interacted with the different
2 institutions, different departments, the Board of Prison Terms,
3 and outside agencies.

4 My formal schooling includes a Bachelor's of Arts
5 Degree from the University of Michigan at Ann Arbor, a Master's
6 of Education from the University of Nevada in Reno.

7 My focus includes serving and maintaining the
8 public safety in an efficient manner, making Folsom State Prison
9 a meaningful and safe workplace for the employees, a beneficial
10 and safe place for inmates to serve their sentences, and a
11 valuable neighbor for the surrounding community.

12 I wish to acknowledge and thank the fine staff of
13 Folsom State Prison who continue to serve and blend tradition
14 with current excellence. I wish to thank my supportive
15 supervisors, friends, and especially my wonderful family.

16 Thank you.

17 CHAIRMAN BURTON: Did you replace a male or
18 female warden?

19 MS. BUTLER: There was an interim female acting
20 warden, but Glen Mueller was the prior Warden.

21 CHAIRMAN BURTON: This is more idle curiosity,
22 we've seen several female wardens. Basically, prisons and that
23 were always a male bastion.

24 How do you deal with that? Or, how do they deal
25 with you? I guess they accepted it, because there are quite a
26 few female wardens now.

27 MS. BUTLER: I believe I am the second appointed
28 Warden of Folsom State Prison, and I believe the first Warden

1 had a successful time there.

2 I feel that I am very supported by staff. I do
3 not believe my gender has anything to do with it.

4 CHAIRMAN BURTON: How long is your pre-release
5 program there?

6 MS. BUTLER: My pre-release program is for three
7 weeks.

8 CHAIRMAN BURTON: Do you think that's enough?

9 MS. BUTLER: No.

10 CHAIRMAN BURTON: Who determines three weeks?
11 You, whoever, the budgetary stuff, or what?

12 MS. BUTLER: It's my understanding that there was
13 a desire to put as many people through the program as possible.
14 And so, we as a department, it was decided to have three weeks
15 for the program and to have it standardized.

16 I understand that there are exceptions to this
17 three-week requirement, and that some programs are six weeks.

18 CHAIRMAN BURTON: When do you do it, right before
19 they leave?

20 MS. BUTLER: We do it as close before they leave
21 as possible, yes.

22 CHAIRMAN BURTON: Well, if you want to put as
23 many people through the program as they can, I would think --
24 it's a departmental reg?

25 MS. BUTLER: It's a departmental stance, yes.

26 CHAIRMAN BURTON: One, I don't think three weeks
27 is enough.

28 Two, if you want to put people through, they can

1 move it back and maybe do it a little earlier. Because the
2 better the pre-release program, conceivably, the least chances
3 are you might see the individual again.

4 MS. BUTLER: Could I add some information.

5 CHAIRMAN BURTON: Sure, go ahead.

6 MS. BUTLER: Folsom is doing some pilot programs,
7 and we have been contacted by the Parole Division. And they
8 have a program which is called the Offender Employment
9 Continuum. So, they are joining with us to bring contract
10 people in. And even though this is only a 40-hour course, it is
11 very intense, and it is put on with a standardized curriculum
12 there.

13 I have also contacted the PIA, which is the
14 Prison Industry Authority, who has programs in our area. They
15 are implementing an inmate employability program.

16 I am also in contact with Paroles, and they are
17 proposing a parole pre-release preparation program, and it's my
18 understanding that that program is intended to be six months,
19 so that's the last part going out, so that they would not only
20 have the information from the institution side, but they would
21 be providing a lot more information from the community side,
22 which is where they are going to.

23 CHAIRMAN BURTON: How many inmates participate in
24 the program, roughly?

25 MS. BUTLER: We have 60 inmates. We have two
26 classes, which is a joint teaching, shared teaching, and so we
27 have about 60 inmates every three weeks.

28 CHAIRMAN BURTON: Do you bring in the DMV, and

1 Social Security, and other government agencies?

2 MS. BUTLER: We do that as regularly as
3 possible. Sometimes it is not possible, but we encourage it,
4 and we try to have them come in.

5 We also encourage the parole agent to come in so
6 they have that.

7 CHAIRMAN BURTON: It's not possible because?

8 MS. BUTLER: I believe they have budget concerns
9 also.

10 CHAIRMAN BURTON: So, in other words, DMV
11 couldn't send somebody there because they're busy watching
12 people wait in line to get their driver's license?

13 MS. BUTLER: That's my understanding, sir.

14 CHAIRMAN BURTON: How about gang violence at the
15 prison? Has it been up, down, sideways, or what?

16 MS. BUTLER: Over the last five or six years,
17 Folsom has had very little violence there. Unfortunately this
18 last six months, we have had some. And apparently Folsom has
19 had the reputation of being too much of a programming
20 institution. So, through our intelligence --

21 CHAIRMAN BURTON: Meaning?

22 MS. BUTLER: Meaning we're not disruptive enough.
23 And so, what we have heard is --

24 CHAIRMAN BURTON: I mean --

25 MS. BUTLER: Let me explain, I'm sorry.

26 We have the influence of the prison gangs, and
27 they try to have control of the different prisons by keeping
28 them in turmoil and trying to have them become disruptive.

1 Our staff have done a great job of keeping the
2 gangs out of Folsom Prison, and they've done a great job of
3 having that a programming prison.

4 CHAIRMAN BURTON: How do they do that?

5 MS. BUTLER: It's my understanding that when an
6 inmate comes in, we give him an orientation, we get him into a
7 program. We let them know that we do not tolerate this type of
8 thing.

9 And we have many, many, many inmates at Folsom
10 that want to program, that do not buy into this proposed
11 violence. And we have people that will let us know who these
12 inmates are that want to disrupt the prison.

13 Our staff go ahead and document this. They go
14 ahead and take these inmates off the yard. And working with
15 Headquarters Classification Services, et cetera, we move those
16 inmates to a higher level institution, or, if we have enough
17 documentation, we will actually place them in the SHU program
18 because of their disruptive behavior and what we feel is
19 disruptive influence.

20 CHAIRMAN BURTON: You call SHU a program? Isn't
21 that like 20 to 23 hours looking up at a thing?

22 MS. BUTLER: Yes, it is, sir.

23 CHAIRMAN BURTON: I'd just hesitate to call it a
24 program.

25 MS. BUTLER: I apologize.

26 CHAIRMAN BURTON: That's all right.

27 Senator Johnson on this point.

28 SENATOR JOHNSON: I had a question about that.

1 Isn't it a fact that the prisoners, by and large
2 at Folsom, are just older than in the rest of the system?
3 Doesn't that account for a lot --

4 MS. BUTLER: It does account for probably a lot
5 of our stability. We have approximately 750 lifers. And to
6 become a lifer at Folsom, that means you'd have to serve a lot
7 of time to get your points down and be transferred to a Level II
8 institution.

9 We also -- I think the average age in CDC is
10 approximately 34. Our average age is 37.

11 But we do have inmates come into the Level IIs
12 that are youngsters, that do want to participate in this
13 disruptive behavior, that do want to sell their drugs, and that
14 do want to cause havoc.

15 We do not appreciate these inmates, and we try to
16 remove them and get them off of our yard as soon as possible.

17 SENATOR JOHNSON: The key is a better class of
18 prisoner.

19 Thank you.

20 CHAIRMAN BURTON: What do you do if somebody,
21 shall we say, if an inmate calls the attention to the
22 administration that people are trying to do gang stuff or
23 something, what do you do to protect them and not have the word
24 gets around that there's a snitch in the yard?

25 MS. BUTLER: We understand that inmates do not
26 like quote, "snitches," people that tell on other inmates.

27 So, we are very careful with our information. We
28 have a file of this central file, which has the inmate's

1 records, and it is called a confidential file. And no one from
2 the outside, unless they have a need to know, is allowed to read
3 that. Only the staff have access to that file.

4 And so, we put the confidential information in
5 that area so that most people would not have information
6 concerning that.

7 We also have an S and I Squad. They -- it's
8 Security and Investigation. And this is a select group of
9 officers that receive additional training in the gangs, and they
10 also receive training on how to go out and interact with the
11 inmates. And the inmates know who they are, so they know that
12 they can provide that information to them.

13 We also get what we call kites, or pieces of mail
14 through the mail and First Watch, and they will send us
15 anonymous information. In fact, on this last one, we even got
16 anonymous information from visitors, where their loved one,
17 inmate, you know, was confiding in them. And so, the visitor
18 store would call us and anonymously let us know what their
19 concerns were.

20 CHAIRMAN BURTON: Are there ever like
21 repercussions?

22 MS. BUTLER: If there are repercussions, we try
23 to take the inmate off of the yard, and we put them,
24 unfortunately, in Ad. Seg., but Ad. Seg. is a protection area;
25 it's not necessarily a bad area. And then we go through the
26 classification process, and we get them transferred to a
27 different prison so that they can program without these
28 problems.

1 CHAIRMAN BURTON: Are you involved in the visitor
2 procedures, visiting procedures?

3 MS. BUTLER: Yes, I am.

4 CHAIRMAN BURTON: If a visitor complains about
5 who knows what in the process, how do you handle it?

6 MS. BUTLER: How do I handle it. If they write
7 me a letter, then I answer it personally. And I don't -- I look
8 at the issue, and I try to --

9 CHAIRMAN BURTON: You look into it and see
10 whether there's merit to their complaint, whether you should
11 change the process, whether you should talk to whoever the
12 guards are in the visitor's room, or what?

13 MS. BUTLER: Right. I believe that in visiting,
14 we have now a very proactive group. And one of the authorities
15 that I've given to the staff that are on duty, especially on the
16 weekend, is there are issues that do come up that, you know, the
17 regs just don't cover. Or, if the regulations do cover, maybe
18 common sense doesn't. You know, it just counters common sense.

19 At the prior institution, I give the example
20 where this grandmother would always visit. I think she was
21 like 80 years old or something. So, one week she came and her
22 driver's license expired. Well, the regulations say you can't
23 visit, you know, without a valid driver's license. And yet the
24 staff knew her, and everything else.

25 CHAIRMAN BURTON: What if you don't drive? That's
26 a dumb regulation.

27 MS. BUTLER: Well, there's other documents you
28 can get.

1 The point is, sir, that I have given my staff --

2 CHAIRMAN BURTON: Have them use some common
3 sense.

4 MS. BUTLER: Yes. I have given my staff --

5 CHAIRMAN BURTON: What do you need to get in?
6 What if you don't drive? What suffices?

7 MS. BUTLER: You can get a California
8 identification card. You can get a passport.

9 I think the easiest thing to do is get a
10 California identification card.

11 CHAIRMAN BURTON: Senator Johnson.

12 SENATOR JOHNSON: No questions.

13 CHAIRMAN BURTON: Senator Romero.

14 SENATOR ROMERO: Thank you.

15 Just last week, I believe it was, we confirmed
16 the Director of the Department of Corrections. There was a
17 great deal of testimony, and there was some very disturbing
18 testimony, it was for me, in terms of the food for inmates. A
19 statistic that we heard was that inmates are fed on an average
20 of \$2.40.

21 MS. BUTLER: Forty-five cents.

22 SENATOR ROMERO: Forty-five cents, let's be
23 generous.

24 That bothers me. I don't know how I can eat one
25 meal under \$2.45 unless I'm really skimping.

26 Can you describe for us what is a meal plan?
27 What's the nutritional value? We asked for a menu, but I'm just
28 curious.

1 And again, this is system wide. I don't want to
2 pick on you, but can you describe for me how nutritious is this?

3 MS. BUTLER: First of all, we have a master
4 nutritionist. And when we first --

5 SENATOR ROMERO: You'd have to at 2.45 a day.
6 I'd say you'd have to be a master.

7 MS. BUTLER: Their goal was to assure that we
8 offered the inmates 2500 calories a day. So, that is kind of
9 the standard as far as calories.

10 And then we became aware that we would be having
11 an aging population, and health care is a very costly item. So,
12 our nutritionist then focused on a heart healthy menu, so that's
13 what we have now, is a menu that is supposed to fit the
14 requirements of a heart healthy menu.

15 I have brought some menus, if you would like to
16 look at them later, or now.

17 SENATOR ROMERO: Can you just describe quickly
18 breakfast, lunch, dinner?

19 MS. BUTLER: I have gone into the dining room
20 many, many times. And it appears that there is too much food.
21 I could never eat all that food.

22 And the inmates, you know, if they don't like
23 something, they'll trade it with some other inmate so they can
24 eat enough of whatever it is that they like.

25 But there is eggs, or pancakes, or waffles. I
26 mean, the normal things that we would have for breakfast. If
27 it's breakfast, it's usually a warm breakfast, a hot breakfast.
28 For lunch, it is normally what we call a sack lunch, so you

1 would have bread, and cheese and meat. You would have maybe
2 chips or a cookie, and some kind of fruit.

3 So, every meal is balanced. We are also aware
4 that many of our inmates have a diabetic problem, so they have
5 like a diabetic card so they can get additional milk or fruit.

6 So, my background is more in education and
7 programing than business service, but I know that we have what
8 they call opportunity buying. And the vendors know that instead
9 of having food where they have to maybe drive it a thousand
10 miles, if they can get rid of the food close by, to a close by
11 prison, they will give it to us at a much cheaper price. So, we
12 will -- our food managers are always getting faxes about here's
13 an opportunity buy. And if it fits within our menu, then we go
14 ahead and do it. And we are able to do it.

15 I would invite you out to Folsom, which is close.

16 SENATOR ROMERO: I actually have visited,
17 although I didn't hit the cafeteria.

18 MS. BUTLER: Well, we serve at 5:00 in the
19 morning, breakfast, or you may want to come for dinner. I
20 believe truly that the sack lunch is kind of -- it's just the
21 bread, and the meat, and the cheese, and the mayonnaise, or
22 whatever.

23 But the real menus are the ones that -- we have a
24 system called cook-chill. I don't know if you're familiar with
25 that, but they cook large amounts of meals. Then they chill
26 them, not freeze them, and then they can be distributed in an
27 organized manner. So, you can really plan ahead, and plan your
28 meals ahead, and be very efficient.

1 But any of you who would like to come out and
2 look at it, we also have a Food Committee with the inmates. Of
3 course, if the inmates are not happy with the food, that is a
4 major concern to us because there's not a lot of items they have
5 in prison, even in SHU, but food is one of those items that they
6 really care about.

7 We have special menus for holidays. You know, on
8 Thanksgiving and Christmas, and the different holidays, the food
9 managers take pride in making it a special meal. And they have
10 constant dialogue with the Inmate Food Committee and the food
11 manager.

12 And we also put out food samplers, and so it can
13 be anonymous or they can sign their name if they want us to talk
14 to them about that. And so, we as wardens, you know, find out
15 if things are kind of going sideways.

16 But as far as the cost, they're able to do this
17 with the way that they purchase the food in bulk, and then
18 purchase the food that is close by.

19 SENATOR ROMERO: Thank you.

20 CHAIRMAN BURTON: Do the guards and the people
21 who work there eat the same food, or do they have a different
22 commissary? Do the guards and the employees in the prison eat
23 the same food, or have they got a different commissary?

24 MS. BUTLER: We have the guards, and usually a
25 lieutenant do what we call a food sample. So, they have to eat
26 one meal, but we do not feed --

27 CHAIRMAN BURTON: One meal a day, a year, a
28 month, a week?

1 MS. BUTLER: A day as a food sampler. However,
2 we do not feed the guards there. They can eat whatever they
3 want or bring their own food.

4 CHAIRMAN BURTON: Bring their own sandwiches or
5 something?

6 MS. BUTLER: Yes.

7 CHAIRMAN BURTON: It's part of the MOU.

8 A lot of turkey: sliced turkey; turkey bologna;
9 smoked turkey; turkey pastrami; and turkey ham.

10 Turkey's a cheap item.

11 MS. BUTLER: Well, it's also a very acceptable
12 item because some religions have problems with some of the other
13 food items.

14 CHAIRMAN BURTON: I'm looking at this. I don't
15 know how can do that at 2.45. You must really buy in bulk.
16 That does seem to be --

17 MS. BUTLER: Now, this is only for the food,
18 Senator. It is not for the forks, or the knives, or the
19 napkins.

20 CHAIRMAN BURTON: Oh, okay. Cornmeal mush. I
21 used to eat cornmeal -- no, I didn't eat cornmeal mush. My
22 mother served me cornmeal mush.

23 Senator Knight.

24 SENATOR KNIGHT: I saw SOS on there, too.

25 CHAIRMAN BURTON: Breakfast, right.

26 SENATOR KNIGHT: Right.

27 CHAIRMAN BURTON: Turkey SOS.

28 SENATOR KNIGHT: Normally you associate a hot

1 breakfast with somebody who's going to go out and do a whole lot
2 of work. What do these guys do?

3 MS. BUTLER: We have a whole variety of jobs, and
4 schools, and PIA, the Prison Industry Authority.

5 I would say 50 percent of our workers are in what
6 we call the support services, and they're plumbers; they're
7 maintenance; they paint; they clean the plumbing; they sweep the
8 floors; they mow the grass.

9 SENATOR KNIGHT: Okay. What's a secret sauce?

10 MS. BUTLER: I must have missed that day.

11 SENATOR KNIGHT: It's down there on the bottom,
12 Sunday dinner, secret sauce, one ounce.

13 MS. BUTLER: It must be one of those old family
14 recipes, sir. I really don't know.

15 SENATOR KNIGHT: You were at Ironwood.

16 MS. BUTLER: Yes, I was, sir.

17 CHAIRMAN BURTON: Do you have to drive along that
18 highway.

19 [Laughter.]

20 SENATOR KNIGHT: I ain't never going to get over
21 that.

22 Ironwood, are you familiar with a veterans
23 program that they have there?

24 MS. BUTLER: Yes, I am, Senator. I'm familiar
25 with it. I believe they also have it at San Quentin.

26 They did not have it when I was there, so I
27 cannot claim any addition to that as far as my input, but I
28 understand that it is a very valuable organization. In fact,

1 it's one of the things that pulls the different groups
2 together. And it is a melding of people that had a common
3 experience. It's also my understanding that they raise money
4 for charity and do very positive things. I think it's a very
5 good item.

6 SENATOR KNIGHT: Good. I'm due to be the keynote
7 speaker down there, and I'm trying to figure out what it is.

8 MS. BUTLER: The Warden, I'm sure, knows what it
9 is. But it's a very valuable program.

10 SENATOR KNIGHT: Thank you.

11 SENATOR JOHNSON: Senator Karnette.

12 SENATOR KARNETTE: No questions.

13 SENATOR JOHNSON: Witnesses in support, using the
14 system that we employed with Mr. Gallegos. It worked so well,
15 I'd admonish you to follow it.

16 MR. MABRY: Acting Chairman Ross Johnson, and
17 Committee Members, and Appointments Secretary Ms. Sabelhaus, my
18 name is Roy Mabry. I'm the State President of the Association
19 of Black Correctional Workers.

20 I'm here in full support for Ms. Diana Butler,
21 her second confirmation as Warden for the California Department
22 of Corrections, Folsom State Prison.

23 I know that we have lot of budget concerns and
24 other things. I'd like to make comments on the additional
25 wardens that's coming up, specifically a warden that's assigned
26 to my prison, Mr. John Dovey, but I'll do that after I give
27 Ms. Butler a hug, if it's okay, Senator.

28 SENATOR JOHNSON: If it's okay with Ms. Butler.

1 MR. MABRY: I know you're rushed for time, and I
2 am also. I'm in the process of getting loan from a bank because
3 I keep hearing in articles that our stock is soaring. It's a
4 long story.

5 For Mr. David Runnels, Warden from High Desert
6 State Prison, we're also giving our full support. I talked to
7 him earlier, and he's looking a little nervous.

8 SENATOR JOHNSON: Does he get a hug as well?

9 MR. MABRY: He's going to get a hug as well, not
10 in here.

11 This is a warden that's assigned to my prison,
12 the California Institution for Women, and that's Mr. John Dovey.
13 I'm extremely happy that we're finally going to get a male
14 confirmed over a women's prison in the State of California.
15 After we confirm him, we're going to just stand up, and I think
16 all the Senators are going to clap. Well, maybe.

17 But I'm really happy to be standing here in
18 support of him today, specifically for him. I just wanted to
19 puts that on the record.

20 SENATOR JOHNSON: Thank you very much.

21 Next witness, please.

22 MS. AGUILERA-MARRERO: Good afternoon. My name
23 is Suzanna Aguilera-Marrero, Sam for short, and I'm representing
24 the Chicano Correctional Workers Association as their
25 Association President.

26 It's an honor and a privilege to sit before you
27 again, this distinguished panel. And we totally support
28 Ms. Diana Butler for Warden. The chapter level had an interview

1 with her and voted to support her, and she was supported at the
2 regional and at the state level.

3 We're the largest Hispanic law enforcement
4 organization of professionals in the State of California. And
5 we're proud to be here and support her, and hope that you also
6 confirm her today.

7 Thank you.

8 SENATOR JOHNSON: Next.

9 MR. ACUNA: I'm Oliver Acuna, the Chairperson of
10 the California Correctional Peace Officers Association, Folsom
11 Chapter, CCPOA, representing 450 rank and file employees.

12 We are in full support of Ms. Diana Butler as
13 Warden.

14 Thank you.

15 SENATOR JOHNSON: Thank you, sir.

16 Next.

17 MS. BIRD: I'm Cayenne Bird, Director of the
18 UNION, United for No Injustice, Oppression or Neglect.

19 We are made up of 6,000 inmate families. Many of
20 them are doctors, teachers, nurses, social workers, people in
21 the helping professions; 35 churches, 32 journalists.

22 Each day we put out a newsletter on the Internet
23 that lists complaints that we've received from prisoners or
24 their families, mostly their families, about conditions in the
25 various 33 prisons.

26 You'll almost never see me sitting up in support
27 of a warden because I'm on the front line where all the
28 complaints come in. I have something like six filing cabinets

1 full of complaints.

2 Warden Butler is someone that I supported when
3 she was confirmed at Chuckawalla. And the reason that I'm
4 sitting here is that we have very few complaints on that prison.

5 I believe what she does right that we like is
6 that she comes to the position with a sensitive balance of
7 compassion and wanting to help the inmates return to their
8 communities in much better shape than before they were
9 committed. That's missing in most of the wardens that are
10 active today. Her background as a teacher, I think, plays a
11 large role in the way that she manages things. She really is
12 interested in education and rehabilitation as a priority.

13 Of course, we don't like the SHU. We think it's
14 terribly inhumane. But overall, we have the least complaints on
15 Ms. Butler of any other warden.

16 I would like to make a couple comments on the
17 food situation, if you would allow me to do that.

18 SENATOR JOHNSON: Briefly, ma'am.

19 MS. BIRD: Okay.

20 The way that they stretch \$2.45 a day over, you
21 know, per inmate is that they use the mystery meat sandwiches.
22 There are no special diets. This is across the board at all
23 prisons.

24 The heart healthy diet is very high in
25 carbohydrates, but it's fats and proteins that are filling. And
26 so, the inmates are complaining that they're very hungry on this
27 diet.

28 I think there hasn't been an increase in the food

1 budget for 15 years.

2 There are also problems with the serving, not
3 particularly in her prison. She probably has the best one. The
4 ladles are like four ounces, so inmates are doing this, and
5 they're dragging their sleeves in the food. That's just a whole
6 different topic.

7 But the heart healthy diet is inadequate. They
8 don't serve fresh food. Very rarely will they ever get a salad.
9 At most prisons they've eliminated citrus. They're afraid that
10 they will make pruno. You can make pruno out of catsup. But,
11 you know, they've eliminated citrus, and they're giving them
12 artificial sweeteners instead of real sugar to keep them from
13 making wine. They've eliminated honey.

14 SENATOR JOHNSON: I'm going to cut you off.

15 MS. BIRD: Okay, fine.

16 SENATOR JOHNSON: You're sounding very much like
17 you're in opposition.

18 MS. BIRD: No, I'm not to her particular prison,
19 but I'm in opposition to the food situation.

20 SENATOR JOHNSON: You're getting a little far
21 afield here.

22 I wonder if we could hear from the next witness.

23 MS. BIRD: Well fine. Thank you. I hope that
24 you confirm Warden Butler.

25 SENATOR JOHNSON: Thank you, ma'am.

26 MS. BIRD: Can't help it.

27 MR. DOMINO: My name is Larry Domino. I am here
28 in support of Ms. Butler.

1 I am a member of the California Peace Officers
2 Association. I'm Member of ABCW, Black Correctional Peace
3 Officers -- Workers. I'm also a member of MILE, and I'm a
4 member of Chicano Peace Officers Association.

5 Ms. Butler, since she's been there, when she came
6 in, she had some employee issues, very hard decisions that she
7 had to make, and she handled them perfectly. And she's been
8 doing a good job.

9 She's got my support. I think she'll make a very
10 good warden.

11 Thank you.

12 SENATOR JOHNSON: Thank you, sir.

13 Witnesses in opposition.

14 SENATOR KARNETTE: Move it.

15 SENATOR JOHNSON: Do you have any family members
16 here with you today?

17 MS. BUTLER: Yes, I do. I have my husband, Jim
18 Butler. He's very happily retired from the Department of
19 Corrections.

20 [Laughter.]

21 SENATOR JOHNSON: Now that I need to know how it
22 works, if I could get Mrs. Johnson to keep working.

23 [Laughter.]

24 SENATOR JOHNSON: Senator Karnette moves.
25 Secretary, call the roll.

26 SECRETARY WEBB: Senator Karnette.

27 SENATOR KARNETTE: Aye.

28 SECRETARY WEBB: Karnette Aye. Senator Knight.

1 SENATOR KNIGHT: Aye.

2 SECRETARY WEBB: Knight Aye. Senator Romero.

3 SENATOR ROMERO: Aye.

4 SECRETARY WEBB: Romero Aye. Senator Johnson.

5 SENATOR JOHNSON: Aye.

6 SECRETARY WEBB: Johnson Aye.

7 SECRETARY WEBB: Four to zero.

8 SENATOR JOHNSON: Congratulations.

9 MS. BUTLER: Thank you.

10 [Thereafter, CHAIRMAN BURTON

11 added his Aye vote, making the

12 final vote 5-0 for confirmation.]

13 SENATOR JOHNSON: John Dovey, Warden, California
14 Institution for Women at Corona.

15 Welcome, sir.

16 MR. DOVEY: Good afternoon. Good afternoon,
17 Chairman and Members of the Senate Rules Committee. Thank you
18 for scheduling my appearance today.

19 My name is John Dovey, Warden at the California
20 Institution for Women.

21 My career began over 22 years ago at the
22 California Institution for Men. And while working there, I
23 attended college while working full-time at the prison. I
24 graduated from the University of LaVerne with Bachelor of Arts
25 Degree in Human Services in 1981.

26 My experience has been drawn from assignments at
27 four institutions, both within the Department of Corrections and
28 the California Youth Authority. As manager, my assignments have

1 included Facility Captain, Custody Captain, Associate Warden,
2 Chief Deputy Warden, and of course this last July as Warden at
3 CIW.

4 I believe my experience and management style are
5 well suited to address both the challenges and the opportunities
6 which are presented at CIW. I'm deeply concerned about the
7 welfare of both staff and inmates, and I believe that since I've
8 been there, they have both come to respect and believe in me as
9 well.

10 I recognize that you have my application and
11 resume, and with my brief introduction, I'd be happy to answer
12 any and all questions you may have of me.

13 SENATOR JOHNSON: Senator Romero.

14 SENATOR ROMERO: Thank you.

15 You probably know that the Women's Caucus in the
16 Legislature, of which both Senator Karnette myself are members,
17 have been very interested, especially in looking at women in
18 prison and the children of incarcerated parents.

19 Given that yours is institution specifically for
20 women, can you tell us what unique challenges your institution
21 faces, and your responsibilities as a warden dealing with an
22 all-female institution?

23 MR. DOVEY: Well, I look at them as
24 opportunities. I believe that working at CIW has presented me
25 with a whole new perspective on the Department of Corrections
26 because there are differences.

27 The main difference, of course, you know, the
28 women and their children, and maintaining some kind of ties

1 between the women and their children, and re-establishing
2 sometimes the family ties.

3 The women offenders come to the Department of
4 Corrections, it's been my experience, as single heads of
5 households. More women come in with children than men come into
6 the institution. The women play a little more active role in
7 child rearing.

8 So, having programs that continue to bond the
9 women with their children is very important to the women as well
10 as to the administration.

11 SENATOR ROMERO: What about access to regular
12 gynecological health care, access to feminine hygiene products?

13 We have heard that there have been some concerns
14 that inmates do not have ready access to the most basic products
15 that are needed for women. Can you respond to that?

16 MR. DOVEY: Absolutely.

17 I meet regularly with women, not just the Women's
18 Advisory Council, but we have several groups, and I meet with
19 them personally.

20 I tour the housing units. I meet with staff.
21 When those issues come up, we address them.

22 SENATOR ROMERO: How often do they come up?

23 MR. DOVEY: I've heard of it one time, that the
24 feminine hygiene issue came up. It came up on one occasion.
25 And I have not heard it come up.

26 We review inmate appeals on a regular basis. The
27 women that I met with say that it is not an issue in the general
28 population; that there have been concerns expressed with women

1 in our Administrative Segregation Unit where those kind of
2 supplies are controlled. But I can assure you, they are readily
3 available.

4 In terms of health care, I have an excellent
5 relationship with our Chief Medical Officer. We work
6 hand-in-hand to administer health care to the institution. And
7 when it comes to issues that they require access to care, then I
8 defer to her. Then my job is to make sure that the women get it
9 without any obstructions.

10 SENATOR ROMERO: Many years ago, I participated
11 in an educational program for women there at the institution.
12 And I was reading the statistics today that on reception, your
13 inmates read at a reading level of fourth grade, fifth grade.

14 What type of educational programs do you offer
15 for the women who are there incarcerated? What type of success
16 do you see in boosting them from those entry fourth grade
17 reading levels to anything that might possibly assist them upon
18 release?

19 MR. DOVEY: Well, the first thing I did was hire
20 a new Supervisor of Correctional Education Programs, well
21 respected in this area, a former teacher herself. Together, we
22 have started building programs at the institution.

23 But we do offer everything from Adult Basic
24 Education 1, 2, and 3, to GED testing. We now have college
25 courses available to the inmates as well.

26 But in addition to the regular structured
27 education programs that we have, we also do a lot of programing
28 in the evening time. One of our programs is the READ Program,

1 which is an acronym for Real Entertainment After Dinner. It's
2 inmate peers helping inmate peers with literacy, helping them
3 learn to read. You know, the basics of introduction to
4 literacy.

5 Another program that we're starting is, we have a
6 video program that we just purchased. There's a new curriculum
7 for the GED program that you're probably aware, since January.
8 And we'll be offering this program, so that inmates who are
9 working can go to their housing units in the evening, watch the
10 videos, and then take tests later on and obtain their GED that
11 way as well, so they don't have to choose whether to work or go
12 to school. They can do both.

13 SENATOR ROMERO: If I can just ask one last
14 question.

15 I applaud efforts on the GED, but we're looking
16 at women who are reading at the fourth grade level.

17 Can you just let me understand, are these women
18 who, for the most part, have gone through high school and
19 perhaps might be able to take up the GED at that point, or are
20 these for the most part who --

21 MR. DOVEY: These are women for the most part who
22 have come in with those kind of reading scores. So, either
23 through the formalized Dole Basic Education 1, 2 or 3 process,
24 or through our self-help groups in the evening, we'll take them
25 right on up to GED. And for the first time in 50-year history,
26 we had a GED graduation last year.

27 SENATOR ROMERO: Congratulations. Thank you.

28 MR. DOVEY: Thank you.

1 CHAIRMAN BURTON: Senator Knight.

2 SENATOR KNIGHT: Thank you, Mr. Chairman.

3 In the men's prisons, it appears as though the
4 gang problem is one of the more significant problems.

5 What do you consider a similar problem within the
6 women's institution?

7 MR. DOVEY: I've worked in the men's
8 institutions, and although there's sporadic instances of gang
9 activity, it's really not an issue that I face in my
10 institution.

11 We spend our time usually on other issues.

12 SENATOR KNIGHT: The question was, are there any
13 other issues that would relate as to gang problems in the men's
14 institution?

15 MR. DOVEY: From my experience, the women come
16 into the institution. Instead of -- like, the men will try to
17 form gangs to get access to something, to control something, the
18 women come in and really form family units, if anything else.
19 They take care of one another better than the men do, it seems.

20 CHAIRMAN BURTON: Senator Karnette.

21 SENATOR KARNETTE: Where, from which area, do
22 most of the women come? I think I know the answer to that.

23 MR. DOVEY: From my institution, most of the
24 inmates we receive come from the Southern California counties.

25 SENATOR KARNETTE: Like L.A. and Orange.

26 MR. DOVEY: Like L.A., Orange, Riverside, San
27 Bernardino, San Diego.

28 SENATOR KARNETTE: So, when people have to visit,

1 it's a pretty long trip; isn't it?

2 MR. DOVEY: Fortunately for the women at CIW,
3 it's at least as close as, you know, roughly the city of Chino.
4 So, we have a very active visiting program. And I meet
5 regularly with the visiting staff. I tour the visiting grounds
6 myself. I go out and I talk with visitors.

7 So, we have a very healthy visiting program.

8 SENATOR KARNETTE: So actually, the visiting
9 program, it is in a location that makes it easier.

10 MR. DOVEY: At CIW, in fact, it works out very
11 well.

12 SENATOR KARNETTE: One other question I had.
13 When the women, a lot of them are there for drug-related
14 offenses, right?

15 MR. DOVEY: That's correct.

16 SENATOR KARNETTE: And you have programs for
17 rehabilitation?

18 MR. DOVEY: CIW has the second oldest substance
19 abuse program in the Department of Corrections. We had our ten
20 year anniversary just a few months ago.

21 It's a very viable program. Substance abuse,
22 education, as you probably know, in the institutions works.
23 It's substance abuse education inside institutions, combined
24 with residential care upon release that really makes a
25 difference in turning some lives around.

26 The women, as you know, come into the
27 institutions with many issues. Many of them have used
28 substance abuse as a way of avoiding, a lot of times, other

1 issues that they're dealing with as well.

2 SENATOR KARNETTE: You feel like it's reasonably
3 successful?

4 MR. DOVEY: I believe in substance abuse
5 education.

6 SENATOR KARNETTE: Thank you.

7 CHAIRMAN BURTON: I don't know if this was asked
8 while I was out, but you're the only warden to have the Board of
9 Prison Terms come there and kind of explain stuff to people?

10 MR. DOVEY: I invited the Board down; yes, sir.

11 CHAIRMAN BURTON: I don't know what good it does
12 you with this administration's policy.

13 Has the impact been helpful to the inmates or
14 what?

15 MR. DOVEY: Well, it had a great calming effect.

16 The inmates were asking me about Board of Prison
17 Terms decisions, about their release, about, you know, policy
18 issues that are outside of my ability to control. But it was a
19 very disruptive theme. It was reoccurring.

20 So, in order to address the issues, I invited the
21 Board down to come speak to my lifers. I have about 350 women
22 who are life inmates.

23 And in listening to the Board's presentation, I
24 probably could have provided the same information, but see, it
25 was the fact that they came and addressed them. They came there
26 personally and met with them. We had, for lack of better
27 words, an assembly like in school, and we let anyone who wanted
28 to come.

1 CHAIRMAN BURTON: How many Board members came?

2 MR. DOVEY: The Executive officer, Mr. Speed, and
3 a Deputy Commissioner. They had a very good and positive
4 effect.

5 CHAIRMAN BURTON: I'm glad somebody cared,
6 although nobody's going to get out anyway.

7 MR. DOVEY: It was like somebody cared.

8 CHAIRMAN BURTON: How many of the lifers do you
9 have down there in the battered women category? I went down; we
10 had a hearing down there. I can't remember how long ago, maybe
11 10 or 11 years. Several of the women testified.

12 Let's assume there were nine. And except for one
13 who had been arrested once either for being drunk, and she might
14 also have been arrested maybe for possession of a couple joints,
15 nobody else had ever done anything in their life except get beat
16 up by their husbands. And, you know, they're about as much of a
17 danger to society as that rug is.

18 I remember there was one, she's probably still
19 there. She was a little, well, older -- at least I thought she
20 was older. Maybe she's my age. An Italian lady who, I think,
21 even used to work in the parish rectory, or something. And
22 every time her husband beat her up, she'd go to the priest, and
23 the priest would say, "Pray for yourself. Pray for him." She
24 did. She'd go home, and he'd beat her up again.

25 I mean, she's still in prison. And like, it
26 makes a hell of a lot of no sense to me.

27 Now I know it's not your deal, but how do they
28 not get into a gang and set fire to their mattresses? It just

1 seems to me the most outrageous, unfair, stupid waste of
2 taxpayers' money, plus a terrible thing.

3 You know what the women are. I mean, I would
4 imagine the ones I saw, they could babysit my grandson in a
5 heart beat and I wouldn't even think about it, including the one
6 that got arrested, you know, for being drunk once.

7 I mean, how do they interact?

8 MR. DOVEY: My lifer population at the
9 institution is very stable. I've personally reviewed many of
10 their files. And like you say, many times the only criminal
11 history they've ever had is the 187 that got them to prison.

12 The fact is, my job, after I maintain security,
13 is to provide not just programs for inmates so that once they do
14 get out, they'll be ready, but also to provide hope. To provide
15 opportunity.

16 And one of the things that we're doing, and why
17 don't they just rebel is because we continue to try to work with
18 them, and they respond. One of the programs --

19 CHAIRMAN BURTON: I applaud you for what you're
20 trying to do.

21 How can you offer hope to somebody that knows
22 there's a policy that says never? I mean, and I really do, I
23 applaud you for what you're doing, but, I mean, as someone once
24 said in a movie as they were torturing somebody and then let up,
25 "There's nothing more evil than giving someone false hope."

26 I don't know how you can program the lifers to
27 get out when they ain't going to get out. How you can give them
28 hope.

1 What is it? I think Pete did one, and Gray did
2 one. I think that was it, and it's been a while.

3 MR. DOVEY: The recent women who've been
4 released, their releases themselves have provided hope. So, the
5 women continue --

6 CHAIRMAN BURTON: They think there's a shot
7 somewhere.

8 MR. DOVEY: -- they continue to look for a date.

9 CHAIRMAN BURTON: God bless them.

10 Do you have any family here, sir?

11 MR. DOVEY: Yes, I do. I have my wife, Lisa; my
12 sons Mike, Nick, Drew; and my daughter LaShay. I have my
13 parents, Ron and Betty Dovey of Claremont. And I see my uncle
14 came in, Marion Shroeder, and my cousin.

15 CHAIRMAN BURTON: We can dispose of you and empty
16 the room, huh?

17 [Laughter.]

18 CHAIRMAN BURTON: Welcome.

19 Witnesses in support. Name, group, and support,
20 please.

21 Go ahead.

22 MR. MARTINEZ: Mr. Chairman and panel members,
23 my name is Nick Martinez. I'm a member of CSEA, and I'm also a
24 member of the Correctional Institutions Committee.

25 In early April, Ms. Marty Goodman, a co-committee
26 member of mine, and myself had the opportunity of touring the
27 Correctional Institution for Women, where we were warmly met by
28 Mr. Dovey and his staff. We toured the institution and had the

1 opportunity to speak with CSEA members there.

2 They are all in support of Mr. Dovey. Not all,
3 but those that we spoke to were.

4 CHAIRMAN BURTON: Don't give him the names of the
5 others.

6 [Laughter.]

7 MR. MARTINEZ: Okay. We had the opportunity to
8 also meet with him during lunch time, and they had nothing but
9 good things to say about Mr. Dovey.

10 We support Mr. Dovey in his confirmation, and we
11 ask that you also support him.

12 CHAIRMAN BURTON: Thank you very much.

13 Next, please.

14 MR. VILLANUEVA: Good afternoon. My name is
15 Richard Villanueva. I've been a correctional lieutenant at the
16 California Institution for Women since 1993. I am also the
17 local Chapter President for the California Correctional
18 Supervisors Organization.

19 In polling the supervisors, the CIW supervisors
20 there overwhelmingly support Mr. Dovey and welcome him as our
21 new warden.

22 Thank you.

23 MR. MUNERLYN: Good afternoon. My name is
24 Cubby, and yes, Cubby is my real name.

25 I'm here in sole support of Mr. Dovey. I've been
26 at CIW for 17 years. In fact, I'm presently working as a CC I.

27 I believe in his vision. I believe in the things
28 that he's done. He supports programs that does, in fact,

1 promote hope, even though it seems dim, Mr. Burton, but he does
2 do that. And that's the reason why I'm here in full support of
3 Mr. Dovey.

4 CHAIRMAN BURTON: Thank you.

5 Next, please.

6 MR. TATUM: My name is Richard Tatum. I'm the
7 State President of the California Correctional Supervisors
8 Organization.

9 I take these confirmations very seriously. Our
10 organization does. Come to many of them with it.

11 We feel that Mr. Dovey is the type of warden that
12 we need in the Department. His integrity, his knowledge, his
13 abilities are the type of warden that we feel that the
14 Department of Corrections needs, not only in female but in male
15 type institutions.

16 With that, I'm requesting his confirmation.
17 Thank you.

18 CHAIRMAN BURTON: Thank you.

19 Are there witnesses in opposition?

20 MS. BIRD: You missed my testimony in support of
21 Warden Butler and an explanation of the food problem.

22 Senator Burton, honorable Members of the
23 Committee, Cayenne Bird, representing UNION.

24 What I do is take complaints out of filing
25 cabinets, six drawers full, and combine them into a summary, a
26 short summary in this case, but one that's important to us
27 nevertheless. We circulate the -- I told them this earlier, but
28 I want you to know, Senator Burton -- we circulate complaints

1 from the prisons daily in a newsletter on the Internet. It goes
2 to the journalists, certain Legislators, our churches, a lot of
3 people. It gets out there. So, I'm very much aware of what's
4 going on inside the prisons.

5 We have a medical advisor. He is a nephrologist
6 and internist in San Diego, someone who has worked with the
7 Legislature over the medical neglect issues. And he is someone
8 that I respect very much. He's not at all a hot head, and you
9 will know him by first name John.

10 So many of the things that I'm about to state are
11 based on our medical advisor's input, our medical doctor's
12 input, who has a loved one who's had a tour there and stayed at
13 the prison while Mr. Dovey was Acting Warden.

14 Basically, these are our complaints. He has
15 failed to provide safe and healthy living conditions. CIW has a
16 massive rodent problem. This is frightening to the inmates.
17 The whole place is old. It needs to be bulldozed. That's not
18 his fault, but still, he needs to stand up for that and say,
19 listen, this facility has leaky sewage. There's notices in the
20 waiting room. High levels of metals in the water, cadmium,
21 other metals, lead, probably from the old plumbing. The guards
22 drink the bottled water, and the inmates are forced to drink
23 water that is basically poison, according to the alerts. Of
24 course, our medical doctor is going to be extremely sensitive to
25 these things when his loved one was there, drinking the water.

26 The flies are very thick. CIW is located in the
27 middle of a horse and cow farm. There's manure all around.
28 There's a fertilizing processing plant just across the street.

1 Our visitors tell us that the amonia blows right into the
2 prison. It's at a toxic level. We've even filed complaints
3 with the EPA. People's eyes are burning when they come out.
4 That's how bad the ammonia level is.

5 The water is contaminated also by nitrates.
6 There's very strict regulations about water quality. They're
7 supposed to do these reports every three months. The last one
8 posted there is April, 2001, so we respectfully ask that the
9 condition of the water be updated. And we want to know what is
10 being done to protect the water supply.

11 CHAIRMAN BURTON: Do you give this testimony to
12 Senator Polanco's Sub 4 that deals with the funding of
13 Corrections and the prisons?

14 MS. BIRD: No.

15 CHAIRMAN BURTON: In other words, as good or bad
16 as anybody is, they can't do much about the smell of the cow
17 manure down there, having been there myself.

18 MS. BIRD: And the ammonia.

19 CHAIRMAN BURTON: But I mean, those matters are
20 matters of funding Corrections in Sub 4.

21 So I think also what I would suggest to you,
22 although this budget cycle is done, is to contact Senator
23 Polanco's Joint Committee on Prison Construction.

24 MS. BIRD: They're on our -- they've been on our
25 list for sometime, Senator Polanco's office.

26 CHAIRMAN BURTON: I know you're sending him
27 stuff, but you ought to contact Senator Polanco's committee and
28 staff, and try to get a hearing.

1 This man, none of us are going to get that thing
2 shut down except for the budget and the Governor.

3 MS. BIRD: Okay. But I did just want to make
4 sure those reports are up to date, and that you're aware.

5 We don't have a lot of response when we're trying
6 to get help on these issues. That's why I'm here.

7 I could just fill this whole room with one
8 e-mail, with a lot of people who would be just all up in arms,
9 but I try to be the sane representative. There is a failure to
10 control the guards. We have a lot of complaints from a Sergeant
11 Cole as being a peeping Tom. Even doctor -- the doctor, our
12 medical doctor, confronted Mr. Dovey about it, and just the
13 administration got all together and gave a lot of excuses
14 instead of firing him. He obviously has more than one report.
15 Instead of taking appropriate action, the complaints are met
16 with more of a cover-up than an actual action.

17 There is neglect. Inmates in the Ad. Seg., for
18 months at a time, even when they're in there for their own
19 protection. The combination of the isolation and the unsanitary
20 hygiene, the mice, the leaking sewage right into the cells, it
21 makes it comparable to a prison in Tijuana. It's just terrible,
22 and it's unfit for Americans.

23 The National Commission of Health Care says that
24 inmates should have daily access to a shower, and it should be
25 at an appropriate temperature. The women in the Ad. Seg. shower
26 every three days. It's very cold. This is a system-wide
27 problem. These Ad. Seg. conditions are worse than the regular
28 conditions.

1 He had his loved one there. He tried to work
2 with Dovey, as we have had him represent other problems. SNAFU
3 after SNAFU occurred, and she ended up staying ten weeks in that
4 hell hole, Ad. Seg. out there.

5 We have complete access to Diana Butler, but he
6 was very callous in the handling of these complaints.

7 And so, I do want to stress that the operation of
8 this facility, the actual physical parts of it, are very
9 substandard to where people should be living, especially living
10 for the rest of their lives.

11 There's a lot more I could say, but that's the
12 high point of this particular one.

13 CHAIRMAN BURTON: And again, I would suggest that
14 you try, instead of putting -- I mean, Senator Polanco's office,
15 like all of us, gets a ton of stuff everyday. And I would
16 really suggest you try to set up an appointment with the
17 Senator's staff that deals with both Corrections budget and the
18 Joint Committee on Prisons Operations and Construction, because
19 most of what you say is within their purview, and they could be
20 very helpful.

21 MS. BIRD: We have had meetings with CDC top
22 staff and Senator Polanco's people, and some of the wardens. We
23 have had certain meetings. Doctor has been very involved in
24 that, but we just don't see any change. We've been doing this
25 since '98, and it just doesn't move. It's budget or --

26 CHAIRMAN BURTON: A lot of it's budget. We're
27 going to try to get the prisons themselves into an MOU
28 situation, as opposed to, like, the people that work

1 there. Then they could end up with getting maybe some money for
2 capital construction.

3 MS. BIRD: But the accessibility, and the long
4 terms in the Ad. Seg., that has to end, and sensitivity to our
5 complaints.

6 CHAIRMAN BURTON: I think the Warden's got that
7 message.

8 MS. BIRD: Okay. Thank you.

9 CHAIRMAN BURTON: Thank you.

10 Move the nomination.

11 SECRETARY WEBB: Senator Karnette.

12 SENATOR KARNETTE: Aye.

13 SECRETARY WEBB: Karnette Aye. Senator Knight.

14 SENATOR KNIGHT: Aye.

15 SECRETARY WEBB: Knight Aye. Senator Romero.

16 SENATOR ROMERO: Aye.

17 SECRETARY WEBB: Romero Aye. Senator Burton.

18 CHAIRMAN BURTON: Aye.

19 SECRETARY WEBB: Burton Aye. Four to zero.

20 CHAIRMAN BURTON: Congratulations, Warden.

21 MR. DOVEY: Thank you. Thank you very much.

22 CHAIRMAN BURTON: And thank you very much for
23 your support on the one release that we got. You were very
24 helpful.

25 Warden Runnels.

26 MR. RUNNELS: First of all, I would like to thank
27 the Committee for allowing me to come before you today.

28 I have 20 years of service with the California

1 Department of Corrections. I started as a correctional officer
2 in 1982 at Deuel Vocational Institution and promoted through the
3 custody chain of command to my present position as Warden at
4 High Desert State Prison.

5 In addition, I accepted assignments as an
6 employee relations officer and correctional business manager.
7 These assignments gave me experience in personal management
8 practices and physical management.

9 I have worked at three different institutions
10 during my career: Deuel Vocational Institution; California
11 State Prison at Solano; and my present prison, High Desert State
12 Prison.

13 I am actively involved in the community as a
14 member of the Rotary Club of Susanville. I have coordinated and
15 participated in many fund raising activities in our community.
16 I maintain a cooperative relationship with local law enforcement
17 officials, community leaders, to ensure the prison is viewed as
18 a partner with the local community.

19 I believe strongly in communication between
20 staff, inmates, and my administration. I empower staff to do
21 their jobs and maintain an open line of communication with staff
22 and inmates.

23 My understanding of High Desert State Prison's
24 mission, together with my correctional expertise, make me
25 uniquely qualified to be Warden at High Desert State Prison.

26 I would be happy to answer any of your questions
27 at this time.

28 CHAIRMAN BURTON: Deuel Vocational, that's youth;

1 right?

2 MR. RUNNELS: DVI is not Youth Authority. It's
3 part of the California Department of Corrections.

4 CHAIRMAN BURTON: How many lockdowns have
5 occurred since you've been at High Desert, and how long have
6 they lasted, roughly, do you know?

7 MR. RUNNELS: As far as a total lockdown of the
8 institution, or a specific segment of the institution, sir?

9 CHAIRMAN BURTON: Let's do total, and then let's
10 go section by section.

11 MR. RUNNELS: Total lockdown of the institution,
12 we've had one since I've been the Warden of High Desert State
13 Prison.

14 CHAIRMAN BURTON: Or Acting Warden? Warden and
15 Acting Warden.

16 MR. RUNNELS: As Acting Warden and Warden. There
17 was one total lockdown.

18 CHAIRMAN BURTON: How many sectional lockdowns?

19 MR. RUNNELS: Numerous. Numerous.

20 CHAIRMAN BURTON: Too numerous to recall?

21 MR. RUNNELS: I can look it up.

22 CHAIRMAN BURTON: No, 10, 20?

23 MR. RUNNELS: I would say that Facility A, which
24 is our Level III facility, has probably had eight to ten in the
25 last year-and-a-half. Facility B has had four major incidents
26 in the last 14 months. Facility C, you have an upper yard and a
27 lower yard. We've had numerous lockdowns there; I would say
28 probably in excess of 20 to 30.

1 CHAIRMAN BURTON: In total, close to 50?

2 MR. RUNNELS: I would say that would be probably
3 at bottom end of the spectrum if you look at the institutional
4 wide.

5 CHAIRMAN BURTON: That 50 would be at the bottom?

6 MR. RUNNELS: Yes. If you combined all the
7 facilities and the different modified programs that we've had to
8 run on them, yes.

9 CHAIRMAN BURTON: So, it would be more than 50?

10 MR. RUNNELS: Yes, I believe it would.

11 CHAIRMAN BURTON: How long do they usually last?

12 MR. RUNNELS: It depends on the severity of the
13 incident.

14 CHAIRMAN BURTON: What's the longest that you can
15 remember?

16 MR. RUNNELS: Since I've been the Acting Warden,
17 the longest has probably been Facility B that has lasted for
18 probably two months at a time.

19 CHAIRMAN BURTON: Two months?

20 MR. RUNNELS: Yes.

21 CHAIRMAN BURTON: What happened in Facility B?

22 MR. RUNNELS: Fourteen months ago we started with
23 a Southern Hispanic and black inmate riot of 200 inmates. So, it
24 started over a basketball game.

25 It took us probably two months to identify who
26 were instigators of the incident, get them moved to alternative
27 housing, and start a gradual unlock process on the facility. We
28 made it to the last day of the gradual unlock process, which was

1 probably about two months after the initial --

2 CHAIRMAN BURTON: So, it took two months to
3 figure out who started the fight?

4 MR. RUNNELS: Well, and search the facility, and
5 to interview all the inmate population; yes, sir.

6 CHAIRMAN BURTON: Was it a fight with fists, or a
7 fight with knives, or what?

8 MR. RUNNELS: There were weapons involved, yes.

9 CHAIRMAN BURTON: What kind?

10 MR. RUNNELS: Inmate-manufactured slicing devices
11 which have razor blades melted in and also knives.

12 CHAIRMAN BURTON: So, it took two months to
13 search your place?

14 MR. RUNNELS: It takes approximately -- it's a
15 270 facility. It takes us approximately three weeks to search
16 that.

17 CHAIRMAN BURTON: Then three weeks to search, and
18 then five weeks to figure out who started it, or who was
19 involved, or what?

20 MR. RUNNELS: Usually you start with who is
21 involved right away because you have the crime scene.

22 CHAIRMAN BURTON: How long did that take you?
23 Wouldn't you look for weapons before you knew who was involved?

24 In other words, would you search the whole
25 section?

26 MR. RUNNELS: We would search --

27 CHAIRMAN BURTON: Because I would think weapons
28 would be more important to know than who threw the first punch.

1 MR. RUNNELS: We would -- we would search the
2 entire facility.

3 CHAIRMAN BURTON: But wouldn't you go for weapons
4 before you go for who it was?

5 MR. RUNNELS: Yes. It's kind of a combined
6 effort. You have your Investigative Services Unit that's
7 investigating the crime. They're looking at the crime scene
8 diagram, who was on the yard, what the location --

9 CHAIRMAN BURTON: I mean, I would think the first
10 thing you want to do is find out if there's any weapons.

11 MR. RUNNELS: Absolutely.

12 CHAIRMAN BURTON: Regardless of who started it or
13 who did it, that that would be the first thing you're looking
14 for.

15 MR. RUNNELS: Yes, at the incident site,
16 absolutely.

17 CHAIRMAN BURTON: No, but I guess you search the
18 whole section in lockdown; don't you?

19 MR. RUNNELS: Yes, we do.

20 CHAIRMAN BURTON: Wouldn't that be the first
21 thing you'd do as opposed to --

22 MR. RUNNELS: We start the search process within
23 the first probably 24 hours.

24 CHAIRMAN BURTON: So, it's three weeks to do the
25 search, and concurrently you're trying to find out who caused
26 the problem. Then you do the search; you find out who caused
27 the problem, and how much longer do you keep them in lockdown?

28 MR. RUNNELS: It depends on whether we've

1 resolved the problem within the selected groups of inmates that
2 are involved in the issue.

3 Sometimes you may be through your search process
4 to your investigative process, but the intelligence that you're
5 getting from the inmate population on the one-on-one interviews
6 are telling you that the problem still exists, and that if you
7 unlock those two groups, they're going to riot again. They're
8 going to attack each other on sight. So, you have to work
9 through that.

10 CHAIRMAN BURTON: It's assumed everybody in the
11 section is going to be beefing with each other, or is it just
12 groups within groups?

13 MR. RUNNELS: It's usually groups within groups,
14 and we pretty much, like during the Facility B modified program,
15 it affected the Southern Hispanics and the blacks, but not the
16 other inmate population.

17 CHAIRMAN BURTON: What kind of steps can you take
18 to prevent a lockdown?

19 MR. RUNNELS: I think you have to prevent the
20 violence.

21 CHAIRMAN BURTON: How do you do that?

22 MR. RUNNELS: Well, I think that we have to be
23 more proactive than reactive to inmate violence.

24 Currently what we're doing on Facility B, because
25 it has been problematic for us for the last 14 months, is we're
26 trying a new unlock protocol in Facility B.

27 During our one-on-one interviews with the inmate
28 population, we're talking to them about doing their individual

1 time and not participating in gang activity, and push the gang,
2 you know, mentality. And then we're moving them from a GP into
3 an isolated building. And we're starting a slow integration
4 which mandates that they actually eat together with other races,
5 they go to the Day Room together. And we're pushing in-cell
6 management and anger management training through Breaking
7 Barriers, and we're also using our media center, the television
8 system, to push that out to the inmate population.

9 CHAIRMAN BURTON: Do you have waiting lists for
10 the anger management courses?

11 MR. RUNNELS: At this point, I have probably I
12 would say 40 percent of the inmates on that yard that want to
13 participate in that unlock protocol and do their own time.

14 CHAIRMAN BURTON: In anger management?

15 MR. RUNNELS: In anger management is part of
16 that, yes.

17 CHAIRMAN BURTON: How many slots are there for
18 them to do it?

19 MR. RUNNELS: It's an in-cell program, so we can
20 do as many that want to participate.

21 CHAIRMAN BURTON: Not like the Youth Authority,
22 where they keep them so long, by the time they get in it, they
23 hit the counselor.

24 According to our staff, there's more health care
25 staff vacancies where you are than in most institutions. What
26 problem do you have filling them, where you're located?

27 MR. RUNNELS: It's pretty much the rural area.

28 CHAIRMAN BURTON: People don't want to go up

1 there?

2 MR. RUNNELS: Well, I think it takes a certain
3 type of personality or individual that wants to live in a rural,
4 mountainous area.

5 Now, we have been pretty -- more successful of
6 late than we had in the past. I think some, you know, contract
7 issues, once resolved through that process, might assist us in
8 helping to recruit some professional medicals.

9 CHAIRMAN BURTON: Does Corrections, do they give
10 like a boondock differential, so to speak?

11 MR. RUNNELS: To some classifications.

12 CHAIRMAN BURTON: How about to health people?
13 How about like in the health area?

14 MR. RUNNELS: I believe that some of your mental
15 health classifications do receive stipends, but I think that's
16 based on the profession and not necessarily the location at
17 Susanville. There is no stipend specifically for High Desert
18 State Prison or in the Susanville area in any classification.

19 CHAIRMAN BURTON: Now, you get to Susanville by
20 going over to Nevada and coming back?

21 MR. RUNNELS: That's -- the average person goes
22 through Reno, yes.

23 CHAIRMAN BURTON: You would think that in areas
24 like that, that they should probably give some kind of
25 differential if it's tough to get people up there. Because
26 otherwise, they don't get adequate health care, and then there's
27 a lawsuit by the Prison Law Office, and the state loses. Then
28 they appeal; then they lose. They don't pay, and the interest

1 runs.

2 Probably for chump change, they could have got
3 enough people to work there if they gave them a price
4 differential.

5 MR. RUNNELS: I agree with you.

6 CHAIRMAN BURTON: How long is your pre-release
7 program?

8 MR. RUNNELS: Our pre-release program is a
9 standard three-week program.

10 CHAIRMAN BURTON: Everybody's three week. That's
11 not enough.

12 Senator Johnson and I were just talking. It
13 would seem, unless somebody's doing a flat ten, you may not
14 start the day they walk in, but it would seem all the time
15 people are incarcerated, they should be kind of directed towards
16 release.

17 MR. RUNNELS: Correct.

18 CHAIRMAN BURTON: Otherwise, we could just leave
19 everybody in for life.

20 MR. RUNNELS: Right. We are doing with Shasta
21 County kind of a pilot program with Shasta County called
22 Operation Hope, which we link with the Probation Department of
23 Shasta County, and I think it's -- I can't remember the name of
24 the enterprise -- but they work with us upon the inmate coming
25 to our Reception Center. And if he stays at High Desert, they
26 get involved in setting -- helping to talk to the inmate. It's
27 a voluntary promise if the inmate chooses to participate, but
28 give them advice on vocational training they need to get.

1 CHAIRMAN BURTON: It just should be a current,
2 like, you know, people I would assume in prisons have a fair
3 amount of the time on their hands. It would seem to me to just
4 be an ongoing thing. And I don't know if it got lost when we
5 got rid of, quote, "the purpose is to rehabilitate," which, you
6 know, somebody must have thought meant coddling as opposed to
7 either store, warehouse, or punish.

8 But it seems to me one of the great theories
9 about people going into prison is, hopefully, when they come
10 out, they aren't going to go back. And at least to me, the
11 greater degree we pay attention and try to let them know that
12 there's something else they could be doing, the less chance it
13 is that they're going to come back, except for a few people
14 that, I guess, are sociopaths that are always going to be there.

15 Senator Johnson.

16 SENATOR JOHNSON: We did have a conversation
17 about this, and I understand that this is outside of your
18 capability perhaps even to influence.

19 But it just doesn't make any sense to me that
20 you'd have three weeks of pre-release. I mean, to me that's now
21 just a kid going to college for four years, and you say in the
22 last three weeks, you get your education. I mean, someone who's
23 in prison for four years, it seems to me, logically we know at
24 some point they're going to get out of there.

25 And it's not, Senator Burton, my judgment
26 inconsistent with punishment, and having punishment being the
27 basic purpose, to also say we're going to prepare these people
28 for the day they walk out the door, and hopefully, they're never

1 going to come back again.

2 One observation.

3 Second observation is, and again, I recognize
4 this is outside of your ability, certainly, to totally control,
5 but I was horrified at your indicating that it took three weeks
6 to conduct a search.

7 Common sense tells me that's got to, in large
8 part, be a result of just the design of the facility. If you
9 can't go through and search it thoroughly in a matter of a
10 couple of hours, if there are that number of places where you
11 can hide contraband, or you can hide weapons, that's just a
12 terrible, terrible design.

13 I don't know who, Mr. Chairman, is the
14 appropriate person to be looking at that, and what kind of
15 standards we have in the design of these institutions, but that
16 just makes no sense to me at all.

17 And again, I realize this is not a question for
18 you. But it would seem to me that any warden at any facility
19 around the state ought to be able to make recommendations for
20 modifications of the facilities as they exist now, the physical
21 plant, to minimize the opportunity for hiding contraband.

22 Apart from that, I have no questions.

23 CHAIRMAN BURTON: Senator Romero.

24 SENATOR ROMERO: Thank you.

25 With respect to the lockdowns, can you tell us
26 what types of services the inmate can still access during a
27 lockdown, for example, showers, or the library, dental, medical
28 care? Can you detail that please?

1 MR. RUNNELS: Yes. They're allowed three showers
2 a week during a lockdown by escort.

3 SENATOR ROMERO: And otherwise, when it's not
4 locked down, it is daily?

5 MR. RUNNELS: When it's not on lockdown, it
6 depends on their program, their privilege group. In other
7 words, an inmate that is what we consider A1A, which is of the
8 high privilege group, which means they're participating in work
9 or education type program, they have access to the shower on a
10 daily basis.

11 Your A2B or your C over C inmates obviously don't
12 have as much out of cell time as your A1A type inmates.

13 In addition to showers, we have all medical
14 services that are ducketed by priority ducket, and we escort
15 them to and from, which is your medical, your mental health, and
16 your dental, law library, and visiting.

17 We basically in a sense, we don't, during a
18 lockdown, run work-type assignments and/or recreation.

19 SENATOR ROMERO: You mentioned in your statement
20 that you had submitted a proposal that had been approved to
21 change the way in which you unlock a facility. Can you describe
22 that, and why it has advantages over what was being done before?

23 MR. RUNNELS: I think that my experience, and
24 I've been at High Desert for probably four years, is, one, we
25 have a younger, more violent, doing a longer period -- a longer
26 prison sentence, and they don't value life, and they're looking
27 for immediate gratification, not long-term. Our current work
28 incentive program obviously allows that if somebody participates

1 in work incentive, that that gets a day off their sentence for
2 the time that they work or they program positively in prison.

3 But if you've got a 20-some-year-old, very angry
4 at society individual who is, you know, for a long portion of
5 their life been involved in gangs, they don't care about day for
6 day. Chances are, they're doing 30, 40, 50 years, maybe life
7 sentences. They're looking for immediate gratification, which
8 is spending time with their group on the yard, canteen access,
9 drugs, packages, visiting, those type of privileges more than
10 day for day.

11 My philosophy on Facility B, which is the
12 facility that we're piloting the unlock process, was to try and
13 get the inmates -- because I truly believe that you have 20
14 percent of your inmate population in the Level IV environment
15 that are basically, pardon the expression, but stirring the pot.
16 And then you have 80 percent that want to program, but the 20
17 percent won't allow them because they have leverage, in that my
18 staff, you know, our disciplinary process, administrative
19 process, says we're going to write you a 115; you're probably
20 looking at losing some good time credit, but if you're doing
21 life, who cares, and that we're going to give you a SHU program.

22 Whereas, the gang's influence on the inmate
23 population is, if you don't do what we tell you to do, we're
24 going to kill you.

25 And as far as you're going to a SHU program, that
26 gives them more status in the gang than it does -- you know,
27 it's not a deterrent.

28 CHAIRMAN BURTON: Just an aside.

1 Let's not call the SHU program a program. It
2 ain't a program.

3 MR. RUNNELS: Okay, the Security Housing Unit.

4 CHAIRMAN BURTON: Exactly.

5 MR. RUNNELS: But what we're doing is, we're
6 interviewing the inmate population, and we're actually having
7 them sign a contract saying that they want to do their own time,
8 and they want to defer from gang activity.

9 Once they do that, we're giving them in-cell
10 study program on anger management through Breaking Barriers and
11 Alternatives to Violence. We're moving them from the general
12 population housing unit to a specific housing unit so that we
13 can basically slowly start an integrated unlock with an
14 in-housing unit type program first, which means there'll be Day
15 Room Program. But we're not going to be showing normal t.v.
16 during the Day Room Program; we're going to be showing anger
17 management Alternatives to Violence type program through our
18 Media Center.

19 And then, it would be integrated feeding.
20 They're required to integrate during feeding, not self-
21 segregate.

22 And then from there, we'll step them up to
23 basically yard activity, recreation, and full-time employment
24 opportunities.

25 And then through that process, I believe we can
26 identify who that 20 percent is that's truly down for the gang
27 activity because they won't sign the agreement. They won't
28 participate because that's kind of going against their principle

1 in the gang activity, which will then be able to allow us to
2 identify them, and do appropriate housing changes on them to get
3 them out of the GP so they're not affecting it any more.

4 SENATOR ROMERO: How far are you in the pilot
5 process right now, and are you finding that it's working better
6 than the previous way of unlocking?

7 MR. RUNNELS: So far we're, like I said, in the
8 process of finishing up our search of the facility. And at that
9 point, we have probably, I would say, 40 percent of the inmate
10 population that has all ready agreed to enter into the program
11 voluntarily, that have already expressed it. We have the
12 curriculum developed.

13 So, as soon as we finish the search process,
14 we're going to be sending the one-on-one interviews, where they
15 sign the contract and we actually talk to them about it. And
16 then from that point, we'll be moving them.

17 It could take, for the entire facility to return
18 to normal program, a lengthy process.

19 SENATOR ROMERO: You also mentioned concern about
20 the budget. Does this type of an unlocking procedure cost more
21 money? I know, again, you can't do anything about the budget,
22 but you also raise in your statement a concern about trying to
23 curb and reduce the levels of violence that you acknowledge are
24 all ready at an unacceptable level at the institution.

25 What are the budgetary concerns?

26 MR. RUNNELS: Well, this style of unlock is not
27 driving dollars. I mean, in a perfect world with, you know,
28 more funding, instead of doing in-cell study with anger

1 management and Alternatives to Violence, it would be better in a
2 formal type classroom setting.

3 We're doing it in in-cell because we just don't
4 have the funds to create the classroom space. Not necessarily
5 the space, but the instructors to teach the program.

6 So, I know at High Desert since I've been there,
7 other than the initial emergency that warrants the lockdown,
8 lockdown itself or modified program doesn't drive overtime cost.
9 You search with existing staff on the facility. You use support
10 staff to perform functions, you know, other than like being in a
11 classroom. They're going to be doing some in-cell study, or you
12 use them for assisting in the search process in common areas, or
13 in the kitchen and alternative work areas.

14 SENATOR ROMERO: Thank you.

15 CHAIRMAN BURTON: Senator Knight.

16 SENATOR KNIGHT: No questions.

17 CHAIRMAN BURTON: Senator Karnette.

18 SENATOR KARNETTE: You mentioned differentials
19 for health care professionals.

20 Who would decide on those differentials? Are
21 they in CCPOA or not?

22 MR. RUNNELS: No. They're operating engineers,
23 but I think that would be something between their bargaining
24 unit and probably DPA.

25 SENATOR KARNETTE: But they all have bargaining
26 units, everybody that's employed in the health care industry?

27 MR. RUNNELS: I believe so, yes, ma'am.

28 SENATOR KARNETTE: So, they could, the bargaining

1 unit could, look at differentials for High Desert?

2 MR. RUNNELS: Yes.

3 SENATOR KARNETTE: If they so chose, okay.

4 My next question is, what about visitors there?
5 You know, you're so far from urban areas. Are most of the
6 people there from urban areas?

7 MR. RUNNELS: Actually, most of our visitors, we
8 don't get that many because, obviously, we're so remote. And
9 especially during the winter months, we get very few visits at
10 our institution.

11 But I would say most of the visitors come from
12 Southern California.

13 CHAIRMAN BURTON: Where are the prisoners from?

14 MR. RUNNELS: Oh, the prisoners. I would say the
15 majority of my inmate population are from Southern California or
16 the Bay Area.

17 SENATOR KARNETTE: I have one more question. You
18 were talking about hard core. I think that's true. I mean,
19 it's amazing how prisons sound like classrooms modified.

20 Do you have psychologists or people that are
21 interested in studying the behaviors of the hard core? Anybody
22 ever come in to really study those behaviors?

23 MR. RUNNELS: Not that I'm aware of.

24 SENATOR KARNETTE: Because there must be a way to
25 change their behavior. I know it's a dream.

26 MR. RUNNELS: My experience, and I've been doing
27 this for 20 years, is that I think age does more change than
28 anything with the inmate population. When they're younger, they

1 tend to be more prone to violence and the gang activity and the
2 criminal behavior. And I think it's almost like they get burned
3 out on it going through the process.

4 So at, you know, the latter part of the years, or
5 when they mature a little bit is, I guess, a better way of
6 putting it.

7 SENATOR KARNETTE: They just get tired. They
8 don't value life any more, though, do you think?

9 MR. RUNNELS: I would agree with that. The
10 younger criminals that we have in the system now, they have no
11 value of life. They are looking for immediate gratification,
12 which means, if you have something I want and you wn't give it
13 to me, then I'll take it from you. And that's pretty much what
14 we deal with on a daily basis in the maximum security side of
15 the institution.

16 SENATOR KARNETTE: Do they get very many
17 visitors, the hard core?

18 MR. RUNNELS: We get very few visitors at High
19 Desert.

20 SENATOR KARNETTE: At all?

21 MR. RUNNELS: Yes.

22 SENATOR KARNETTE: You can't tell which ones get
23 more visitors.

24 MR. RUNNELS: I could not tell you whether it
25 would be somebody involved in gang activity. When I walk around
26 the visiting room, they're all on their best behavior. I mean,
27 you know, they're not showing their tattoos as much, and they're
28 more talking to their parents or their family members.

1 SENATOR KARNETTE: Thank you.

2 CHAIRMAN BURTON: How is it determined who goes
3 to Susanville? Do they pick people without families or
4 something, or what?

5 MR. RUNNELS: No. The classification system,
6 most cases do like the Reception Centers. Once the case is
7 worked up with all the case factors, a CSR looks at the case.
8 And based on bed availability in the Department and the
9 classification of the inmate, the CSR endorses the inmate to a
10 place like High Desert State Prison.

11 CHAIRMAN BURTON: Has anybody ever done a study,
12 because in theory, one of the things that helps people not come
13 back is a relationship to their community and their family. And
14 if you're up in Susanville, unless you're a lumberjack, I don't
15 know what kind of relationship to the community or your
16 family.

17 Anybody ever done a study to see whether or not
18 people who get out of Susanville end up, just because of its
19 location in isolation, end up being more recidivist than those
20 that are in a prison where at least, you know, their families
21 can visit, or friends, or there's some sense of community?

22 MR. RUNNELS: I'm not aware of such a study.

23 CHAIRMAN BURTON: How about you, Mike? Did they
24 ever do that?

25 MR. NEAL [FROM THE AUDIENCE]: I don't believe
26 so, Senator.

27 CHAIRMAN BURTON: Why don't we give them
28 something to do. It'd just be kind of interesting. I mean,

1 Pelican Bay, at least Eureka's not Susanville, you know.

2 Do you have any family here?

3 MR. RUNNELS: Yes, sir, I do.

4 CHAIRMAN BURTON: Would you like to introduce
5 them, please?

6 MR. RUNNELS: Yes, I would. My wife, Michelle
7 Runnels; my daughter, Ashley Runnels; my uncle, Gary Runnels;
8 and my aunt, Kathy Runnels; and my son made it, Nicholas
9 Runnels.

10 CHAIRMAN BURTON: You all live in Susanville?

11 MR. RUNNELS: No. My aunt and uncle live, I
12 think it's Grass Valley area. And my son is going to college
13 down in the Sacramento area.

14 CHAIRMAN BURTON: Witnesses in support. Name,
15 rank, and serial number. Most of them addressed, I think,
16 Brother Mabry, you addressed your support for all.

17 MR. MABRY [FROM THE AUDIENCE]: Yes, you were
18 absent.

19 CHAIRMAN BURTON: I appreciate that.

20 [Laughter.]

21 MR. TATUM: Hello again. I'm Richard Tatum. I'm
22 the State President of the California Correctional Supervisors.

23 In listening to some of the questions that was
24 asked here, I'd like to say -- I hadn't planned on it -- but to
25 say that High Desert is a very violent, high custody
26 institution. The job that Mr. Runnels here has is probably much
27 more difficult than a lot of the prisons and a lot of the
28 wardens' jobs that are around the state.

1 CHAIRMAN BURTON: That's who gets sent there, by
2 and large, bad actors, so to speak?

3 MR. TATUM: Yes, it is. It's the type of
4 institution that we send bad folks to.

5 I worked 32 years myself in the Department of
6 Corrections; 27 years of it being a supervisor. I've worked a
7 lot of different institutions, very violent institutions. And
8 High Desert is one of those with it.

9 CHAIRMAN BURTON: So, we shouldn't worry about
10 them being far from their families?

11 MR. TATUM: Not too much.

12 But basically what I'm saying is, this is a more
13 difficult job. I'd like to commend Mr. Runnels on his ability
14 to deal with these type of inmates.

15 Our supervisors up there totally support him. We
16 request your support.

17 CHAIRMAN BURTON: Thank you.

18 Witnesses in opposition.

19 MS. BIRD: I'm Cayenne Bird of the UNION, as you
20 know.

21 We have to voice opposition against Dave Runnels
22 for the following reasons. We feel that he doesn't have control
23 of the guards. We know it's a very violent institution, that
24 there has to be some lockdown procedures from time to time, but
25 I have files full, files full of complaints that I'd be happy to
26 share with you that would indicate that this institution is on
27 lockdown like 90 percent of the time.

28 This means that the families can't visit. I

1 believe that a strong part of rehabilitation is that the
2 families can visit, that there's a connection, that they can
3 feel that they're fathers. And, you know, a lot of these young
4 people have children.

5 And I think that this is dysfunctional to have
6 this much lockdown. That it's creating isolation and probably
7 contributing to the violence.

8 I have reports that it was in lockdown, mostly
9 lockdown 11 months in 2001, and all of this year except for
10 three weeks.

11 I'm compiling a report of lockdowns in prisons
12 statewide. It's Pelican Bay, High Desert, and Lancaster.

13 CHAIRMAN BURTON: Once you do that, it would be
14 helpful if you do, like, lockdown of the total institution;
15 lockdown of part of the institution.

16 MS. BIRD: Yes, the yards.

17 CHAIRMAN BURTON: I assume 11 months was not the
18 whole prison. It was like, part of it was the whole prison;
19 part of it was different classrooms.

20 MS. BIRD: It varies at different times, but
21 almost always on lockdown. It's like a perpetual state. It's
22 as if they can't control the inmates, you know, because there is
23 this high violence. So, what they do as a solution is lock them
24 down. And it might be the only solution that he feels that he
25 has.

26 The two months for searching, that's going on at
27 all of the institutions. Do you remember when I made the point
28 about overtime, and guards love lockdown? They usually bring

1 people from the lower camps to handle the kitchen, and the dirty
2 work, and so forth. They bring in groups, outsiders, to do
3 these searches, and it normally does take a long time. For some
4 reason, the guards love lockdowns.

5 What we think has happened here, I have several
6 reports about two riots up there. We think that they were
7 instigated by the same people twice in a row. They come off
8 lockdown, and here's this black-white group getting into a riot
9 again. And we have specific names and so forth, you know. I
10 don't know want to say that and put the inmates at risk, but I
11 am give that to you.

12 And so, we think that sometimes the guards are
13 causing these lockdowns, that it's safer for them. They don't
14 have to do yard, so on and so forth. Especially here at High
15 Desert. We think it also happens at Pelican Bay and at
16 Lancaster.

17 We understand that these people are
18 dysfunctional, a little mentally ill. We don't think that it
19 helps to punish the mentally ill. It's a fine line between
20 who's criminally insane and who's just sick, you know, from
21 whatever problems, but they should be treated in more of a
22 healing manner. The way that Ms. Butler does her prison, I
23 think, would be more constructive and lower the violence. Just
24 my two cents there.

25 Here's an example. On C Yard, I have some
26 specifics that November 26th, 2001, through January 3rd, 2002,
27 they missed Christmas, New Years, and the inmates' birthday
28 visits. They were cut off from their families. No visits, and

1 no holiday, it's just so much --

2 CHAIRMAN BURTON: Do you have any idea what
3 precipitated that?

4 MS. BIRD: It was over trays missing, I believe,
5 that particular one. I can check for sure.

6 No, that was the segue to the February 2nd
7 through March 1st.

8 CHAIRMAN BURTON: That misses Christmas and
9 Thanksgiving.

10 MS. BIRD: I'll check that one.

11 The one February 2nd through March 1st, that was
12 because two trays were missing from the kitchen. One had been
13 missing a week before lockdown. In the month of the lockdown,
14 many inmates did not get to the canteen because of the number
15 drawing system that they have there that decides who goes, so
16 that makes everybody really distraught, really irritated.

17 The more they lock down, the worse they get.
18 They didn't have writing paper, so they were really cut off in
19 lockdown. If they had broken t.v.s, they don't get their mail;
20 they don't -- just all kinds of interference with the mail, even
21 from our own mail, inside the UNION mail. We often have
22 problems.

23 So, this particular lockdown that I'm addressing,
24 the inmates on D Yard stabbed a child molester to death, but
25 they were not put on lockdown until days later.

26 So, you have the tray situation, and then you
27 have the child molester stabbed to death. That one took days,
28 and the tray thing was right away.

1 CHAIRMAN BURTON: The tray was missing for a
2 week, you said.

3 MS. BIRD: One of the trays were missing. Two
4 trays were missing. They put them on lockdown, as my reports
5 indicate.

6 CHAIRMAN BURTON: They shut it down. The tray
7 was missing for a week, you said, when they shut it down.

8 MS. BIRD: And then they shut it down.

9 CHAIRMAN BURTON: The stabbed child molester,
10 they both got a week before lockdown. That's how I heard it.

11 MS. BIRD: Let me make sure. That's how you
12 heard it, okay.

13 One tray had been missing for a whole week. And
14 then when a second tray came up missing, then the lockdown went
15 into effect immediately.

16 So, we aren't just putting people on lockdown
17 system-wide over violent things. I mean, a cell phone was found
18 at Lancaster.

19 CHAIRMAN BURTON: In theory, and I'm not a great
20 fan of lockdowns; I'm not even a great fan of the Department of
21 Corrections.

22 What are the trays made of; steel trays?

23 MR. RUNNELS: They're plastic.

24 CHAIRMAN BURTON: Plastic trays that conceivably
25 could be broken up and made into something. It might have been
26 part of the broken tray that they killed the child molester
27 with.

28 It isn't like somebody misplaced a library book.

1 MS. BIRD: They have a lot of weapons out there.
2 We have multiple reports on weapons. We have reports that the
3 COs only find them when it's convenient.

4 I don't why we have to have the Nortinos and the
5 Soutinos in the same prison. When you go into Mule Creek, they
6 make you declare, are you part of this group or that group? And
7 even if you're not even a gang member, they make you declare
8 which group are you a part of.

9 Why can't we just have Soutinos in one place and
10 the Nortinos in another place?

11 CHAIRMAN BURTON: Probably the ACLU would be on
12 them in a heartbeat.

13 MS. BIRD: So, we have extreme violence, reports
14 of extreme retribution.

15 CHAIRMAN BURTON: Ma'am, and I don't want to cut
16 you off, but I've got to cut you off because we've got a budget
17 hearing.

18 But you can't have an argument against lockdowns
19 and then state there's extreme violence, because I think when
20 you have violence, that's probably what gets lockdowns, by and
21 large.

22 Although, I think, and I'm checking into the
23 things about the overtime on the lockdowns.

24 MS. BIRD: It's synonymous.

25 CHAIRMAN BURTON: Well, I checked with somebody
26 and they said it wasn't, so I'm double checking. They have
27 these shifts. I mean, it's kind of like somebody caught in a
28 forest fire.

1 But I think that we are going to check out
2 whether or not somebody can do something.

3 They've got such a good contract, they don't
4 really need even bogus overtime.

5 [Laughter.]

6 MS. BIRD: I believe that it's one of those
7 hidden costs. I've been researching the topic myself, and I
8 have a lot of input on that I'd be happy to share.

9 CHAIRMAN BURTON: Can you wrap it up, because we
10 do have a budget hearing.

11 MS. BIRD: Yes.

12 We feel that the psychological problems that the
13 extreme lockdown is causing, the unsanitary practices in the
14 kitchen, mental and dental neglect, secrecy to an extreme level,
15 is making people sicker than before they were put up there. So,
16 we have people with the worst problems in the system, and
17 they're probably getting some of the least amount of the help
18 that they need to return in better condition. We don't believe
19 that perpetual lockdown is acceptable. We've been just about
20 ready to picket High Desert for some time, and we may end up
21 doing that yet.

22 I just feel that this is the tip of the iceberg.
23 They're doing the same thing up there with the food, with the
24 mystery meat sandwiches, and no citrus, and artificial sugar
25 full of chemicals.

26 CHAIRMAN BURTON: Prison's like the Army. Every
27 post gets the same diet.

28 Or does each prison have a different menu?

1 MR. RUNNELS: Basically the Department comes out
2 with an approved menu, and then you try --

3 CHAIRMAN BURTON: There's a lot of citrus in the
4 menu I looked at.

5 Apples aren't citrus; are they?

6 MS. BIRD: Apples and oranges. That's about it.

7 CHAIRMAN BURTON: That's citrus; isn't it?

8 MS. BIRD: No. Citrus is what you take to
9 prevent lyme disease: grapefruit, lemons, oranges. The oranges
10 help, but it's mostly apples. There's no variety.

11 CHAIRMAN BURTON: Who knows what an apple is.

12 SENATOR KNIGHT: Hey, I know what an apple is.

13 CHAIRMAN BURTON: I mean, if it's not citrus,
14 what's other thing they call it?

15 SENATOR KNIGHT: It's a fruit.

16 [Laughter.]

17 SENATOR JOHNSON: I love it when he gives a
18 technical answer.

19 MS. BIRD: Senator Burton, these high
20 carbohydrate diets are not filling. It's the protein that fills
21 them up. So, you know, it's no fresh food. They don't have
22 enough citrus. They are doing it with mystery meat sandwiches,
23 no special diets. And it would put anybody in bad mood.

24 CHAIRMAN BURTON: You're right back with that.

25 I think what we ought to have you do is actually
26 arrange a sit down for you and the Director of Corrections.
27 Have you ever met him, just you and he?

28 MS. BIRD: No. He's very inaccessible.

1 CHAIRMAN BURTON: Why don't you do that, Mike.
2 Mr. Neal back there, he'll set you up with a meeting, you and
3 the Director.

4 MS. BIRD: Thank you very much.

5 CHAIRMAN BURTON: Move the nomination.

6 SECRETARY WEBB: Senator Karnette.

7 SENATOR KARNETTE: Aye.

8 SECRETARY WEBB: Karnette Aye. Senator Knight.

9 SENATOR KNIGHT: Aye.

10 SECRETARY WEBB: Knight Aye. Senator Romero.

11 SENATOR ROMERO: Aye.

12 SECRETARY WEBB: Romero Aye. Senator Johnson.

13 SENATOR JOHNSON: Aye.

14 SECRETARY WEBB: Johnson Aye. Senator Burton.

15 CHAIRMAN BURTON: Aye.

16 SECRETARY WEBB: Burton Aye. Five to zero.

17 CHAIRMAN BURTON: And I think also, Mike, Senator
18 Presley, the Secretary.

19 Thank you very much. Congratulations.

20 [Thereupon this portion of the
21 Senate Rules Committee hearing
22 was terminated at approximately.

23 3:37 P.M.]

24 --ooOoo--

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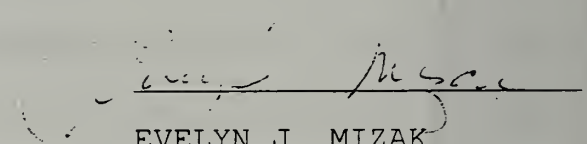
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I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this

29th day of July, 2002.


EVELYN J. MIZAK
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